

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

FLAMMABLE FABRICS ACT

HEARINGS
BEFORE THE
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES
EIGHTY-THIRD CONGRESS
FIRST SESSION

ON

H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159
and H. R. 4500

BILLS TO PROHIBIT THE INTRODUCTION OR MOVEMENT
IN INTERSTATE COMMERCE OF ARTICLES OF WEARING
APPAREL AND FABRICS WHICH ARE SO HIGHLY FLAMMA-
BLE AS TO BE DANGEROUS WHEN WORN BY INDIVIDUALS,
AND FOR OTHER PURPOSES

APRIL 16, 28, AND 29, 1953

Printed for the use of the Committee on
Interstate and Foreign Commerce



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1953

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

CHARLES A. WOLVERTON, *New Jersey, Chairman*

CARL HINSHAW, California
JOSEPH P. O'HARA, Minnesota
ROBERT HALE, Maine
JAMES I. DOLLIVER, Iowa
JOHN W. HESELTON, Massachusetts
JOHN B. BENNETT, Michigan
RICHARD W. HOFFMAN, Illinois
JOHN V. BEAMER, Indiana
WILLIAM L. SPRINGER, Illinois
ALVIN R. BUSH, Pennsylvania
PAUL F. SCHENCK, Ohio
JOSEPH L. CARRIGG, Pennsylvania
HERBERT B. WARBURTON, Delaware
STEVEN B. DEROUNIAN, New York
THOMAS M. PELLY, Washington
J. ARTHUR YOUNGER, California

ROBERT CROSSER, Ohio
J. PERCY PRIEST, Tennessee
OREN HARRIS, Arkansas
DWIGHT L. ROGERS, Florida
ARTHUR G. KLEIN, New York
WILLIAM T. GRANAHAN, Pennsylvania
F. ERTEL CARLYLE, North Carolina
JOHN BELL WILLIAMS, Mississippi
PETER F. MACK, Jr., Illinois
HOMER THORNBERRY, Texas
LOUIS B. HELLER, New York
KENNETH A. ROBERTS, Alabama
MORGAN M. MOULDER, Missouri
HARLEY O. STAGGERS, West Virginia

ELTON J. LAYTON, *Clerk*

CONTENTS

Text of—	Page
H. R. 389	2
H. R. 2768	5
H. R. 3851	9
H. R. 4159	12
H. R. 4500	16
 Report of—	
Agriculture Department on—	
H. R. 389	33
H. R. 2768	33
H. R. 3851	34
H. R. 4159	34
Commerce Department on H. R. 2768, H. R. 3851, and H. R. 4159 ..	19
District of Columbia, Board of Commissioners of, on H. R. 389 and H. R. 2768	32
Federal Trade Commission on—	
H. R. 2768	20
H. R. 3851	23
H. R. 4159	28
 Statement of—	
Bell, W. Ray, president, Association of Cotton Textile Merchants of New York	137
Buck, George S., Jr., technical director, National Cotton Council of America	61, 111
Canfield, Hon. Gordon, a Representative in Congress from the State of New Jersey	35
Dorn, Charles W., representing National Retail Dry Goods Associa- tion	91
Feldman, Erwin, counsel, National Association of House Dress Manu- facturers	119
Fickett, W. P., president, National Association of Button Manufac- turers	182
Freedman, Ephriam, appearing on behalf of New York State Council of Retail Merchants and Retail Dry Goods Association of New York	130
Hays, Donald C., counsel, Society of the Plastics Industry, Inc.	139
Johnson, Hon. Leroy, a Representative in Congress from the State of California	48
McClure, Kenneth F., Assistant General Counsel, Department of Commerce	165
Miller, Henry, Assistant General Counsel, Federal Trade Commission ..	144
O'Brien, Matthew H., representing Rayon and Acetate Fiber Pro- ducers Group	169
Ro vins, Leonard, general counsel, National Retail Dry Goods Asso- ciation	100
 Additional information submitted for the record by—	
American Cotton Manufacturers Institute, Inc., statement of Robert C. Jackson, executive vice president	67
American Viscose Corp., letter from F. Bonnet, adviser to the presi- dent	199
Canfield, Hon. Gordon:	
Communications from representatives of the clothing industry	36-39
Remarks on House floor, March 10, 1953	53
Commerce Department:	
Development of commercial standards	186
Memorandum of law	83
Dayton (Ohio) Fire Department, letter from Forrest B. Lucas, chief ..	196

Additional information submitted for the record by—Continued		Page
Federal Trade Commission:		
Instances of personal injuries sustained from dangerously flammable textile products.....		152, 153
Investigational matters and cases on subject of allegedly dangerously flammable textiles.....		154, 155
Memorandum of law.....		83
Newspaper clippings regarding experiences with brushed rayon wearing apparel.....		155
Freedman, Ephriam, letter from.....		137
Iselin-Jefferson Co., Inc., letter from Lester E. Schultz.....		200
Johnson, Hon. Leroy: Letters from Joe R. Yoekers, California State fire marshal.....		55, 56
Middleton (Ohio) Fire Department, letter from William Fishbaugh, chief.....		197
New York Board of Trade, letter from Cameron A. Baker.....		199
Pepperell Manufacturing Co., Inc., letter from J. M. Holland, research and development department.....		198
Philadelphia Textile Manufacturers Association, letter from C. Carroll Baxter, chairman, legislative committee.....		201
Retail Merchants' Association of New Jersey, statement of Philip W. Schindel, secretary-treasurer.....		197
Riegel Textile Corp., letter from Theodore Riegel.....		201
Silk and Rayon Printers and Dyers Association of America, Inc., statement of David Lloyd Kreeger, Washington representative.....		143
Textile Distributors Institute, Inc., statement of Ely Kushel.....		136
Textile Fabrics Association of New York, statement of W. P. Fickett, president.....		183
Tufted Textile Manufacturers Association, statement of Henry C. Ball, executive vice president.....		195

FLAMMABLE FABRICS ACT

THURSDAY, APRIL 16, 1953

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to call, in Room 1334, New House Office Building, Hon. Charles A. Wolverton (chairman) presiding.

The CHAIRMAN. The committee will please come to order.

This morning, the committee will hear testimony on five bills, H. R. 389 by Mr. Canfield, H. R. 2768 by Mr. Wolverton, H. R. 3851 by Mr. Canfield, H. R. 4159 by Mr. Johnson, and H. R. 4500 by Mr. Williams of Mississippi.

The purpose of these bills is to prohibit the introduction of movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

I am advised that H. R. 389 and H. R. 2768 are identical bills. Likewise, H. R. 3851, H. R. 4159, and H. R. 4500 are identical bills. These bills and any reports thereon which have been submitted by the executive agencies and departments will be made part of the record following the conclusion of these opening remarks.

We are aware of the great interest and need for this legislation to prohibit the introduction or movement in interstate commerce of highly flammable wearing apparel and fabrics. This need was forcefully brought to our attention in 1946 and subsequently when a wave of catastrophies swept across the country. Cowboy suits, sweaters, evening gowns, and other wearing apparel made of highly flammable fabrics burst into flames causing serious bodily injury and even death to children and consumers who were unaware of the dangerous character of such garments.

Several bills dealing with this subject were introduced in the 80th Congress. This committee held extensive hearings on these bills in March of 1947.

Similar bills were introduced in the 81st and 82d Congresses. The Senate, in fact, passed S. 2918 just before the adjournment of the 82d Congress. This committee reported S. 2918 favorably on July 4, 1952, but it failed to pass the House because at that time it was necessary to get the unanimous consent of the House for passage, and this was lacking. My bill, H. R. 2768, and Mr. Canfield's bill, H. R. 389, are substantially the same as the bill which passed the Senate last year.

(The bills above referred to, H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500, are as follows:

[H. R. 389, 83d Cong., 1st sess.]

A BILL To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute nor are part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than a fiber filament or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(i) The term "commercial standard" means a trade standard for flammability established according to the procedures of the Commodity Standards Division of the United States Department of Commerce and promulgated by the Secretary of Commerce.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for or sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, sale or offering for sale of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner hereinafter provided for.

The Secretary of Commerce is authorized and directed to establish test methods, procedures and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards of publication in the Federal Register. No such test method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless, in his opinion, such test method, procedure, and standard are adequate for the protection of the public interest.

Until the Secretary of Commerce shall promulgate applicable test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics, the test methods, procedures, and standards set forth in the "Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131" dated April 13, 1952, and circulated for acceptance by the United States Department of Commerce on April 7, 1952, shall be effective.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Federal Trade Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cease inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) to cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabric will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or § (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8 (a) No person shall be guilty under section 3 if he establishes, under the presently existing procedures for the establishment of commercial standards, a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale for export from the United States to any foreign country an article of wearing apparel or fabric made in accordance with the specifications of the purchaser; or (c) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (d) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not highly flammable under the provisions of section 4 of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect six months after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[H. R. 2768, 83d Cong., 1st sess.]

A BILL To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and

footwear: *Provided however*, That such hats do not constitute nor are part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further*, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further*, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than a fiber filament or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(i) The term "commercial standard" means a trade standard for flammability established according to the procedures of the Commodity Standards Division of the United States Department of Commerce and promulgated by the Secretary of Commerce.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for or sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, sale or offering for sale of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner hereinafter provided for.

The Secretary of Commerce is authorized and directed to establish test methods, procedures and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register. No such test method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless, in his opinion, such test method, procedure, and standard are adequate for the protection of the public interest.

Until the Secretary of Commerce shall promulgate applicable test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics, the test methods, procedures, and standards set forth in the Commercial Standard CS 191-53, "Flammability of Clothing Textiles", promulgated by the Secretary of Commerce December 30, 1952, effective date January 30, 1953.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Federal Trade Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cease inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) to cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execu-

tion of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be guilty under section 3 if he establishes, under the presently existing procedures for the establishment of commercial standards, a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4 is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not highly flammable under the provisions of section 4 of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect six months after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[H. R. 3851, 83d Cong., 1st sess.]

A BILL To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute nor are part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than a fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(i) The term "commercial standard" means a trade standard for flammability established according to the procedures of the Commodity Standards Division of the United States Department of Commerce and promulgated by the Secretary of Commerce.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for or sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, sale, or offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53".

(b) When in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test methods, procedures and standards provided in this Act for determining the rapid and intense burning of wearing apparel and fabrics, by adopting for the purposes of this Act any revision of or amendment to "Flammability of Clothing Textiles, Commercial Standard 191-53" and/or any new applicable commercial standard: *Provided however*, That any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, and 6 of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 or from knowingly issuing a false guaranty under section 8 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) to cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act; and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States

or in United States court of any territory for the district or territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. The penalties provided for a violation of section 3 of this Act shall not apply to any person who establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the fabric or wearing apparel covered by the guaranty was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the specific type of fabric covered by the guaranty or used in the wearing apparel covered by the guaranty, when so tested was not highly flammable within the meaning of section 3 of this Act: *Provided*, That a person furnishing such a guaranty (except a person relying upon a guaranty received in good faith to furnish a guaranty to the same effect, if he, by further processing, has not affected the flammability of the fabric or wearing apparel covered by the guaranty) shall not be relieved thereby from any of the penalties prescribed for violation of section 3 of this Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or has attempted to export from any foreign country into the United States any wearing apparel or fabric which under the provisions of section 4 is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States

of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale, for export from the United States to any foreign country an article of wearing apparel or fabric made in accordance with the specifications of the purchaser; or (c) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contracts or commission service; or (d) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not highly flammable under the provisions of section 4 of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect twelve months after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[H. R. 4159, 83d Cong., 1st sess.]

A BILL To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however*, That such hats do not constitute nor are part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further*, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided*

further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than a fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel, except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(i) The term "commercial standard" means a trade standard for flammability established according to the procedures of the Commodity Standards Division of the United States Department of Commerce and promulgated by the Secretary of Commerce.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for or sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, sale, or offering for sale of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53."

(b) When in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test methods, procedures, and standards provided in this Act for determining the rapid and intense burning of wearing apparel and fabrics, by adopting for the purposes of this Act any revision of or amendment to "Flammability of Clothing Textiles, Commercial Standard 191-53" and/or any new applicable commercial standard: *Provided, however*, That any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, and 6 of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 or from knowingly issuing a false guaranty under section 8 of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) to cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in the United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. The penalties provided for a violation of section 3 of this Act shall not apply to any person who establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the fabric or wearing apparel covered by the guaranty was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the specific type of fabric covered by the guaranty or used in the wearing apparel covered by the guaranty, when so tested was not highly flammable within the meaning of section 3 of this Act: *Provided*, That a person furnishing such a guaranty (except a person relying upon a guaranty received in good faith to furnish a guaranty to the same effect, if he, by further processing, has not affected the flammability of the fabric or wearing apparel covered by the guaranty) shall not be relieved thereby from any of the penalties prescribed for violation of section 3 of this Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or has attempted to export from any foreign country into the United States any wearing apparel or fabric which under the provisions of section 4 is so highly flammable as to be dangerous when worn by individuals may thence forth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of the provisions of any other law. If any provisions of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale for export from the United States to any foreign country an article of wearing apparel or fabric made in accordance with the specifications of the purchaser; or (c) to any convertor, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said convertor, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contracts or commission service; or (d) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not highly flammable under the provisions of section 4 of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect twelve months after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[H. R. 4500, 83d Cong., 1st sess.]

A BILL To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute nor are part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than a fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

(i) The term "commercial standard" means a trade standard for flammability established according to the procedures of the Commodity Standards Division of the United States Department of Commerce and promulgated by the Secretary of Commerce.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for or sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or offer for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, sale, or offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or

received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53".

(b) When in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test methods, procedures and standards provided in this Act for determining the rapid and intense burning of wearing apparel and fabrics, by adopting for the purposes of this Act any revision of or amendment to "Flammability of Clothing Textiles, Commercial Standard 191-53" and/or any new applicable commercial standard: *Provided however*, That any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, and 6 of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 or from knowingly issuing a false guaranty under section 8 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) to cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any territory for the district or territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States

within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. The penalties provided for a violation of section 3 of this Act shall not apply to any person who establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the fabric or wearing apparel covered by the guaranty was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the specific type of fabric covered by the guaranty or used in the wearing apparel covered by the guaranty, when so tested was not highly flammable within the meaning of section 3 of this Act: *Provided*, That a person furnishing such a guaranty (except a person relying upon a guaranty received in good faith to furnish a guaranty to the same effect, if he, by further processing, has not affected the flammability of the fabric or wearing apparel covered by the guaranty) shall not be relieved thereby from any of the penalties prescribed for violation of section 3 of this Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or has attempted to export from any foreign country into the United States any wearing apparel or fabric which under the provisions of section 4 is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is

held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale, for export from the United States to any foreign country an article of wearing apparel or fabric made in accordance with the specifications of the purchaser; or (c) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contracts or commission service; or (d) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not highly flammable under the provisions of section 4 of this Act.

EFFECTIVE DATE

SEC. 12. This Act shall take effect twelve months after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. I desire to bring to the attention of the committee the reports that have come from the various departments and agencies of the Government. I think that too frequently we do not give sufficient attention to these reports.

I desire to read the report from the Assistant Secretary of Commerce, Mr. Sheaffer, speaking for the Department of Commerce. His letter is dated April 15, 1953, and is addressed to the chairman of this committee. [Reading:]

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington 25, D. C., April 15, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in further reply to your communications of February 10, 1953, March 12, 1953, and March 25, 1953, requesting the views of this Department with respect to H. R. 2768, H. R. 3851, and H. R. 4159, respectively, bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

We believe that legislation for this purpose is essential for the protection of the public. Recent newspaper accounts of loss of appropriately designated "explosive sweaters", make out a case for the need for regulation in this field. State action is generally limited to regulation at the point of sale to the ultimate user. State action also falls on the usually innocent retailer rather than on the manufacturer who, in contrast to the retailer, is in a position to know of the potential dangerous character of the fabric utilized in making the garments. Because of the interstate traffic in these materials, Federal regulation appears to be the only effective means of eliminating the hazard.

We wish to invite your attention to the fact that H. R. 4159 and H. R. 3851 provide that the standard of flammability shall be the commercial standard now in effect and any modification thereof shall be made in accordance with presently existing procedures for the development of Commercial Standards.

The assent of large segment of the affected industry is required before standards are placed in effect or modified under presently existing procedures. Where adherence to commercial standards is purely voluntary, this procedure is satisfactory. The required assent to modifications of the standards of flammability

by a substantial number of the persons to be regulated by the proposed law raises a question of the constitutionality of the delegation of authority to establish modifications in the standard. The applicable law is not clear. In any event, the policy involved appears subject to question.

For these reasons, H. R. 2768, which does not require industry approval of changes in the present standard, is, in our opinion, preferable if certain minor amendments are made thereto.

On page 5, line 22, should read "Commercial Standard CS 191-53, Flammability of Clothing Textiles."

On page 5, line 24, the words "shall be effective" should be inserted before the period.

On page 6, line 24, the first word should read "cause."

On page 10, lines 5 and 6, the words "under the presently existing procedures for the establishment of commercial standards" should be deleted since the present procedures for establishing standards do not relate to the furnishing of guaranties.

Subject to your consideration of these amendments, the Department recommends enactment of H. R. 2768.

We have been advised by the Bureau of the Budget that there would be no objection to our submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

C. R. SHAEFFER,
Assistant Secretary of Commerce.

I have a letter from the Federal Trade Commission dated March 19, 1953, which relates to the that were introduced prior to that time. This opinion or letter from the Commission is submitted by James M. Mead, Chairman of the Federal Trade Commission. The letter reads:

FEDERAL TRADE COMMISSION,
Washington 25, D. C., March 19, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. WOLVERTON: This is in response to your recent communication requesting report and comment upon H. R. 2768, entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

The text of the bill, H. R. 2768, appears to us to be in excellent shape with the exception of certain points which we believe merit careful consideration by the Congress. These points and our suggestions and comments in respect to them are presented as follows:

SCOPE OF H. R. 2768

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Such things, therefore, as blankets for children and adults, bedspreads, lap robes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. Fabric merchandise used in the home can be highly flammable and involve much danger to the safety of individuals in their constant use in close contact with individuals in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal active in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to

have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of hats, gloves, and footwear, it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisions. Unless restricted at least to the extent attempted by such provisos, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason the provisos likewise properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited these articles present difficulty in respect to quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber filament or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grown-ups, and other use of yarns and filaments in connection with family made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances it is our view that the exception of fiber filaments and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45° angle in a draft-proof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to inflammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

Terms of the standard provide that the fabric shall be evaluated on the basis of its first having undergone dry cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry cleaned. For the most part, consumers do not wash or dry clean new garments until after they have been worn for a considerable period of

time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry-cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that, in their opinion, such standard is adequate from the standpoint of the public.

In respect to section 4 of the bill it is also noted that the Secretary of Commerce "is authorized and directed to establish test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register." Further provision is made to the effect that he shall not promulgate any test method, procedure, or standard, for purposes of the bill, unless in his opinion such "are adequate for the protection of the public interest." As indicated above, we regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of proper test methods involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) In further reference to standards it is noted that H. R. 2768 carries subsection 2 (i), defining the term "commercial standard." This subsection in the definitions is unnecessary since the only reference to the term in the remainder of the bill is that found in section 4 wherein the standard referred to is adequately identified and described. We therefore recommend the elimination of subsection 2 (i).

OTHER COMMENT

(6) The first word of section 5 (d) (1), namely, the word "cease", should be changed to the word "cause" to correct a misprint. Likewise, the small letter "i" in the commercial standard number in line 22 on page 5 should be changed to the figure "1" to correct a misprint.

Immediately preceding section 10 it may be helpful to insert the title "Interpretation and Separability," since titles are applied to all other sections.

In section 8 (a) the clause in lines 5 and 6 reading "under the presently existing procedures for the establishment of commercial standards" should be deleted. This clause has evidently been inserted inadvertently. As explained above, it should not be used as a limitation upon the power of the Secretary of Commerce to promulgate test standards which he finds necessary in the public interest. Opportunity for finds necessary in the public interest. Opportunity for hearing or conferences of all parties concerned in the test standards would still be available under the Administrative Procedure Act, and without the above-quoted clause suggested for deletion.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of highly flammable textile merchandise reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission under its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease and desist orders were issued in due course against parties placing such fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade but can only proceed

after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation along the general line of H. R. 2768 which is directed to providing a means of forestalling the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

In our opinion passage of the legislation, subject to the matters suggested above, will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAS. M. MEAD, *Chairman*.

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on March 19, 1953, and on March 20, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

JAS. M. MEAD, *Chairman*.

Now, I have two other communications from the Federal Trade Commission dated April 9, 1953, which deal with or comment upon H. R. 3851 and H. R. 4159. These two are alike in words and in terms, because the two bills are similar, so I will not read both of them, because they are similar; but I will read one because it is different from the one I read from the Commission. This is dated April 9, addressed to me as Chairman and signed James M. Mead, Acting Chairman, Federal Trade Commission. [Reading:]

FEDERAL TRADE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington 25, D. C., April 9, 1953.

Hon. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your communication of March 20, 1953, requesting report and comment upon H. R. 3851 entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The text of this bill is in large part identical to that found in H. R. 389 and H. R. 2768, as to which we have heretofore submitted comment. In the circumstances, the new bill, H. R. 3851, retains certain points as well as some others which we believe merit careful consideration by the Congress. Our suggestions and comments in regard thereto are presented below.

We wish, however, to state at the outset that the problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

SCOPE OF H. R. 3851

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Therefore, such items as blankets for children, and adults, bedspreads, laprobes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. These fabrics used in the home can be highly flammable and involve much danger to individual safety in their customary use which is in close contact with persons in the family. They may

be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal active in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisos. Unless restricted at least to the extent thereby attempted, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason the limitations also properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited these articles present difficulty with respect to the possibility of their quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber, filament, or yard" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting of sweaters for children and grown-ups, and other use of yarns and filaments in connection with family made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances it is our view that the exception of fiber, filaments and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This Commercial Standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if after the fabric has been dry cleaned and washed, for seconds or more are required to burn it a distance of six inches when placed at a 45° angle in a draft-proof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill.

It will be noted that the line of demarcation between the good and the bad, in respect to inflammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

As indicated the terms of the standard specifically provide that the fabric shall be evaluated on the basis of its first having undergone dry cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry cleaned. For the most part, consumers do not wash or dry clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

We regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) Further, it is provided in section 4 (b) of H. R. 3851 that when in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test standard of flammability, provided he follows the procedure used in setting up commercial standard 191-53. This requirement would prohibit the Secretary of Commerce from modifying or supplementing the test unless he obtained the consent of 65 percent of the industry or at least of a majority, which is a requirement of the commercial standard procedure. Such presents and unprecedented situation of having the standard of legality or illegality under a penal and civil statute turn upon the consent of the industry to which the legislation applies.

The duty of the Secretary of Commerce to determine appropriate and adequate test standards is highly important and should not in our opinion be subjected to a veto by the industry but should be controlled by what is necessary for proper protection of the public interest. Under the proposed legislation the public's protection against dangerously flammable textile depends almost wholly upon the adequacy of the test method sanctioned by the law.

We suggest in the circumstances that the proviso in section 4 (b) be deleted. A requirement for extending opportunity for hearing and consultation with the industry and all parties concerned when issuing, modifying or supplementing the test standards remains available under the Administrative Procedure Act.

Section 2 (i), among the definitions in the bill, should also be deleted as superfluous since the commercial standard mentioned is fully and effectively identified in section 4.

GUARANTIES

(6) The guaranty provisions contained in section 8 of H. R. 3851 are considerably different from those contained in the corresponding sections of H. R. 389 and H. R. 2768 previously presented. Under H. R. 3851 the guarantor would not as provided in the other bills guarantee that the product is safe under the test specified or that it is not so highly flammable as to be dangerous to individuals when worn. It would merely warrant in effect "that reasonable and representative tests" have been made and that these show the specific type of fabric when tested under the standard "was not highly flammable within the meaning of section 3."

Fabrics are produced and sold in large bolts containing hundreds of yards. It is generally contended that the test applied to one or more parts of such fabric may indicate it is not highly flammable, whereas tests of various other parts of the same bolt of fabric may show it to be highly flammable and dangerous. If tests made happen not to touch the latter parts or yardage of the bolt, garments made therefrom will necessarily be highly flammable and dangerous and yet will reach the public under an approved guaranty.

In the circumstances of these variables and the debatable point of what shall constitute reasonable and representative tests, there is serious doubt that the guaranty could afford much assurance of safety of the product although it would accord immunity from the act to all subsequent processors, manufacturers, distributors, and dealers.

A further point arises from the insertion in section 5 respecting the enforcement power against a false guaranty. Enforcement is thereby restricted to prevention of "knowingly issuing a false guaranty." It would be most difficult, if not impossible, for the administering agency to sustain the burden of proving the fact of "knowingly" issuing a false guaranty and of showing that the manufacturer has not within the confines of his plant or elsewhere subjected the fabric to "reasonable and representative tests," which is all the guaranty asserts.

Such provisions of the bill are materially unlike those heretofore enacted in rather comparable situations, namely, the Wool Products Labeling Act of 1939 (15 U. S. C. A. 68), the Fur Products Labeling Act passed in 1951 (15 U. S. C. A. 69), and the Food, Drug, and Cosmetic Act of 1938 (21 U. S. C. A. 311 (h), 333 (c)).

Under these statutes, to obtain the immunity which the guaranty provisions afforded throughout the channels of trade, the party who desires to exercise his option right of using a guaranty is required to specifically warrant the product to be of a type which meets the requirements of the law. These laws also provide definite and specific authority for civil enforcement against a party who gives a false guaranty, leaving to the criminal provision the offense of willful falsification. Similarly adequate enforcement authority is lacking in H. R. 3851.

The guaranty provisions used in the Wolverton bill, H. R. 2768, and in the earlier Canfield bill, H. R. 389, follow in substance those found in the above-mentioned statutes. We believe them to be preferable and it is therefore suggested that the guaranty section in the Wolverton bill, H. R. 2768, or that appearing in H. R. 389 which is identical, be used with, however, omission after the word "establishes" of the inapplicable clause, "under the presently existing procedures for the establishment of commercial standards." As so recommended the section would then read:

"GUARANTY

"SEC. 8 (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

"(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act."

Such suggested amendment also requires restoration of the designation "or 89b)" to section 7 immediately after the clause "Any person who willfully violates section 3."

Correspondingly, the designation "or 8 (b)" should be inserted in section 5 (b) in lieu of the clause "or from knowingly issuing a false guaranty under section 8."

In relation to the subject it should be noted that the issuance of a guaranty is not a requirement, but is an optional right accorded to the manufacturer or seller by which he may, if he so desires, confer immunity upon those who subsequently handle his product in the course of trade. It appears highly important, especially in view of the immunity conferred, that these provisions contain adequate safeguards against the possibilities of grave injuries resulting from articles of highly flammable goods sold to the public as made of so-called guaranteed fabrics.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of dangerously flammable textiles reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission, pursuant to its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act, has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease and desist orders were issued in due course against parties placing fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade, but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation directed to the purpose expressed in H. R. 3851 of providing a means to forestall the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

We are of the opinion that passage of the legislation amended to cover the matters suggested above will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAMES A. MEAD,
Acting Chairman.

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on April 9, 1953, and on April 15, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

EDWARD F. HOWREY,
Chairman.

Now, I also have, as I have already stated, a companion letter of the same date, April 9, relating to H. R. 4159, which is identical with that which I have just read on H. R. 4159 introduced by Mr. Johnson, which is identical.

I have also received a communication from F. Joseph Donohue, president, Board of Commissioners, District of Columbia, dated March 19, 1953, relating to the two bills that were first introduced, H. R. 389 and H. R. 2768, which were identical.

I have also received reports from the Department of Agriculture on H. R. 389, H. R. 2768, H. R. 3851, and H. R. 4159. They will be made a part of the record.

(The letters referred to are as follows:)

FEDERAL TRADE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington 25, April 9, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your communication of March 25, 1953, requesting report and comment upon H. R. 4159 entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The text of this bill is in large part identical to that found in H. R. 389 and H. R. 2768, as to which we have heretofore submitted comment. In the circumstances, the new bill, H. R. 4159, retains certain points as well as some others which we believe merit careful consideration by the Congress. Our suggestions and comments in regard thereto are presented below.

The problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

SCOPE OF H. R. 4159

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Therefore, such items as blankets for children and adults, bedspreads, lap robes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. These fabrics used in the home can be highly flammable and involve much danger to individual safety in their customary use which is in close contact with persons in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal active in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisos. Unless restricted at least to the extent thereby attempted, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason the limitations also properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited these articles present difficulty with respect to the possibility of their quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber, filament, or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grownups, and other use of yarns and filaments in connection with family made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances it is our view that the exception of fiber, filaments, and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45-degree angle in a draftproof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to inflammability, is so finely drawn that one second of burning determines whether or not the article is of a dangerous character.

As indicated the terms of the standard specifically provide that the fabric shall be evaluated on the basis of its first having undergone dry-cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry-cleaned. For the most part, consumers do not wash or dry-clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry-cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

We regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) Further, it is provided in section 4 (b) of H. R. 4159 that when in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test standard of flammability, provided he follows the procedure used in setting up commercial standard 191-53. This requirement would prohibit the Secretary of Commerce from modifying or supplementing the test unless he obtained the consent of 65 percent of the industry or at least of a majority, which is a requirement of the commercial standard procedure. Such presents an unprecedented situation of having the standard of legality or illegality under a penal and civil statute turn upon the consent of the industry to which the legislation applies.

The duty of the Secretary of Commerce to determine appropriate and adequate test standards is highly important and should not in our opinion be subjected to a veto by the industry but should be controlled by what is necessary for proper protection of the public interest. Under the proposed legislation the public's protection against dangerously flammable textile depends almost wholly upon the adequacy of the test method sanctioned by the law.

We suggest in the circumstances that the proviso in section 4 (b) be deleted. A requirement for extending opportunity for hearing and consultation with the industry and all parties concerned when issuing, modifying or supplementing the test standards remains available under the Administrative Procedure Act.

Section 2 (i), among the definitions in the bill, should also be deleted as superfluous since the commercial standard mentioned is fully and effectively identified in section 4.

GUARANTIES

(6) The guaranty provisions contained in section 8 of H. R. 4159 are considerably different from those contained in the corresponding sections of H. R. 4159 are considerably different from those contained in the corresponding sections of H. R. 389 and H. R. 2768 previously presented. Under H. R. 4159 the guarantor would not as provided in the other bills guarantee that the product is safe under the test specified or that it is not so highly flammable as to be dangerous to individuals when worn. It would merely warrant in effect "that reasonable and representative tests" have been made and that these show the specific type of fabric when tested under the standard "was not highly flammable within the meaning of section 3."

Fabrics are produced and sold in large bolts containing hundreds of yards. It is generally contended that the test applied to one or more parts of such fabric may indicate it is not highly flammable, whereas tests of various other parts of the same bolt of fabric may show it to be highly flammable and dangerous. If tests made happen not to touch the latter parts or yardage of the bolt, garments made therefrom will necessarily be highly flammable and dangerous and yet will reach the public under an approved guaranty.

In the circumstances of these variables and the debatable point of what shall constitute reasonable and representative tests, there is serious doubt that the guaranty could afford much assurance of safety of the product although it would accord immunity from the act to all subsequent processors, manufacturers, distributors, and dealers.

A further point arises from the insertion in section 5 respecting the enforcement power against a false guaranty. Enforcement is thereby restricted to prevention of "knowingly issuing a false guaranty." It would be most difficult, if not impossible, for the administering agency to sustain the burden of proving the fact of "knowingly" issuing a false guaranty and of showing that the manufacturer has not within the confines of his plant or elsewhere subjected the fabric to "reasonable and representative tests," which is all the guaranty asserts.

Such provisions of the bill are materially unlike those heretofore enacted in rather comparable situations, namely, the Wool Products Labeling Act of 1939 (15 U. S. C. A. 68), the Fur Products Labeling Act passed in 1951 (15 U. S. C. A. 69), and the Food, Drug, and Cosmetic Act of 1938 (21 U. S. C. A. 331 (h), 333 (c)).

Under these statutes, to obtain the immunity which the guaranty provisions afford throughout the channels of trade, the party who desires to exercise his optional right of using a guaranty is required to specifically warrant the product to be of a type which meets the requirements of the law. These laws also provide definite and specific authority for civil enforcement against a party who gives a false guaranty, leaving to the criminal provision the offense of willful falsification. Similarly adequate enforcement authority is lacking in H. R. 4159.

The guaranty provisions used in the Wolverton bill, H. R. 2768, and in the earlier Canfield bill, H. R. 389, follow in substance those found in the above-mentioned statutes. We believe them to be preferable and it is therefore suggested that the guaranty section in the Wolverton bill, H. R. 2768, or that appearing in H. R. 389 which is identical, be used with, however, omission after the word "establishes" of the inapplicable clause, "under the presently existing procedures for the establishment of commercial standards." As so recommended the section would then read:

"GUARANTY

"SEC. 8 (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor. in such form as the Commission by rules or regulations may prescribe.

"(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act."

Such suggested amendment also requires restoration of the designation "or 8 (b)" to section 7 immediately after the clause "Any person who willfully violates section 3."

Correspondingly, the designation "or 8 (b)" should be inserted in section 5 (b) in lieu of the clause "or from knowingly issuing a false guaranty under section 8."

In relation to the subject it should be noted that the issuance of a guaranty is not a requirement, but is an optional right accorded to the manufacturer or seller by which he may, if he so desires, confer immunity upon those who subsequently handle his product in the course of trade. It appears highly important, especially in view of the immunity conferred, that these provisions contain adequate safeguards against the possibilities of grave injuries resulting from articles of highly flammable goods sold to the public as made of so-called guaranteed fabrics.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of dangerously flammable textiles reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission, pursuant to its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act, has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease-and-desist orders were issued in due course against parties placing fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade, but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation directed to the purpose expressed in H. R. 4159 of providing a means to forestall the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to

occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

We are of the opinion that passage of the legislation amended to cover the matters suggested above will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAS. M. MEAD,
Acting Chairman.

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on April 9, 1953, and on April 15, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

EDWARD F. HOWREY,
Chairman.

BOARD OF COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, D. C., March 19, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
United States House of Representatives, Washington, D. C.*

MY DEAR MR. WOLVERTON: The Commissioners have for report H. R. 389 and 2768, 83d Congress, substantially similar bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The Commissioners are of the view that the proposed legislation, if enacted, would tend to prevent such occurrences as the tragedies occurring in 1945 and 1946, involving the death of one child and the injury of three others as the result of wearing highly inflammable cowboy suits having fleecy, brushed rayon pants. Further, in early January 1952, only the prompt action of the fire marshal of the District of Columbia, coupled with widespread publicity, brought to the attention of the public the great danger inherent in the wearing of certain sweaters then being sold in the District by a number of itinerant vendors. These sweaters, of a highly-flammable, almost explosive fabric, were similar to those causing injury elsewhere in the United States, and it is believed that had the fire marshal not acted promptly, these sweaters might have caused injury, and perhaps death, to residents of the District. H. R. 2768, if enacted, would tend, it is believed, to reduce the likelihood of such sweaters, and similar highly flammable apparel and fabrics, being brought into the District for purposes of sale.

The Commissioners desire to point out that the third paragraph of section 4 of H. R. 2768 appears to be incomplete, and perhaps should be completed by inserting, immediately before the period at the end thereof, a comma and the phrase "shall be applicable". Further, the word "cease" appearing in line 24 of page 6 of H. R. 2768, and in line 1 of page 7 of H. R. 389, probably in each case should read "cause".

H. R. 2768, with its reference in the third paragraph of section 4 to the promulgation of "Commercial Standards CS 191-53, 'Flammability of Clothing Textiles'", as compared with the reference in the same paragraph of H. R. 389 to "Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131", would appear to supersede H. R. 389. Accordingly, the Commissioners make no recommendation with respect to H. R. 389, but recommend the enactment of H. R. 2768 as being in the welfare of, and constituting a safeguard for, the residents of the District of Columbia.

As you requested in your letter of January 12, 1953, on H. R. 389, and of February 19, 1953, on H. R. 2768, this report is being submitted in sextuplicate, so as to provide 3 copies for your files on each of these bills.

The Commissioners have been advised by the Bureau of the Budget that there is no objection on the part of that office to submission of this report to the Congress.

Very sincerely yours,

F. JOSEPH DONOHUE, *President.*

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of January 12, 1953, for a report of H. R. 389, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

This bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel, and fabrics for use in wearing apparel, which are so highly flammable as to be dangerous when worn by individuals. The bill provides for the use of commercial standards promulgated by the Secretary of Commerce for determining high flammability under the act.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph 2 of section 4, and that the last paragraph of this section be deleted. If this suggestion is adopted, the definition of commercial standard in subsection 2 (i) on page 3 of the bill should also be omitted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of February 10 for a report on H. R. 2768, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

The bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel and fabrics for use in wearing apparel which are so highly flammable as to be dangerous when worn by individuals. The bill provides that the Secretary of Commerce shall establish test methods, procedures, and standards for use in determining high flammability within the meaning of the proposed act but apparently would allow the use of the present commercial standard for flammability of clothing textiles promulgated by the Secretary of Commerce until other test methods, procedures, and standards are promulgated by him under the bill.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid

and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph 2 of section 4, and that the last paragraph of this section be deleted. If this suggestion is adopted, the definition of commercial standard in subsection 2 (i) on page 3 of the bill should also be omitted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of March 12, 1953, for a report on H. R. 3851, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

This bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel, and fabrics for use in wearing apparel, which are so highly flammable as to be dangerous when worn by individuals. The bill provides for the use of commercial standards promulgated by the Secretary of Commerce for determining high flammability under the act.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph (a), section 4, and that paragraph (b) of this section be deleted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON,
Secretary.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of March 25, 1953, for a report on H. R. 4159, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and

fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

This bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel, and fabrics for use in wearing apparel, which are so highly flammable as to be dangerous when worn by individuals. The bill provides for the use of commercial standards promulgated by the Secretary of Commerce for determining high flammability under the act.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph (a), section 4, and that paragraph (b) of this section be deleted.

This Department recommends that, with the changes specified above, this bill be given favorable reconsideration.

The Bureau of the Budget advises that from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON,
Secretary.

Now, I have taken the time to read these reports, because I think they very clearly set forth the issue that will present itself for consideration of this legislation and have done it in a way that will stimulate the thought of the committee and enable it to question the witnesses with better results than might otherwise have been the case.

Now, we have as our first witness this morning the Honorable Gordon Canfield, a Member of Congress from the State of New Jersey, who through the years has been a leading exponent of legislation that would protect the public from these highly flammable materials.

Mr. Canfield, we will be glad to hear you.

STATEMENT OF HON. GORDON CANFIELD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. CANFIELD. Mr. Chairman and gentlemen of the committee; you were very kind to hear me at some length earlier in the year on my longtime concern regarding this problem, in accordance with the policy you have initiated, Mr. Chairman, to permit Members introducing bills, to make preliminary presentation. Therefore I shall try to be brief this morning.

At the outset, however, I want to commend you, Mr. Chairman, on the interest you have shown in this problem, as evidenced by the fact that you have yourself introduced a bill, and I like the statement that you made to the press sometime back that you believe that legislation on this subject, legislation of a Federal nature, was eminent. I am very pleased too, that our other colleagues of the House, Mr. Johnson, the distinguished gentleman from California, who has pioneered in this legislation, introducing bills a way back in the 79th Congress, is also sponsoring a new measure; also that the distinguished gentleman from Mississippi, Mr. Williams, who I know is keenly interested in the subject matter, has a bill similar to that presented by Mr. Johnson and the witness now speaking.

The CHAIRMAN. Before you proceed with your formal statement, of course, the complimentary things you said will not be included in the time allotted to you as a witness in presenting your statement.

Mr. CANFIELD. Off the record, Mr. Chairman—

(After informal discussion off the record.)

The CHAIRMAN. I simply wanted to assure you that you would have your full 15 minutes.

Mr. CANFIELD. I am very glad to hear that.

Mr. Chairman and gentlemen of the committee: It is true that on January 3, of the current year the opening day of the 83d Congress, I presented H. R. 389. Since that time, however, after talking to leaders of various segments of the clothing industry, I became the sponsor of H. R. 3851. I introduced that bill in the House on the 10th of March. At that time I said this:

Mr. Speaker, I am introducing today a bill in substitute for H. R. 389 introduced by me on January 3.

As you know, I have taken a deep and active interest in the subject of flammable fabrics in the hope that national legislation might be approved to prohibit the sale and distribution of wearing apparel that is dangerously flammable. We are all concerned over the needless loss of life and maiming of our citizens because some manufacturers have produced materials that are highly dangerous.

This new bill is necessary because on January 30, after several years of study, the Secretary of Commerce promulgated a commercial standard identified as Flammability of Clothing Textiles, Commercial Standard 191-53. My earlier bill referred to the recommended commercial standard. I am happy to report now that this standard has been approved by the various segments of the textile industry.

I am also pleased to report that the bill which I am introducing today has the unqualified support of not only textile producers but the retail industry as well. This bill has been drafted with the assistance of producers and distributors of fabrics used in wearing apparel and it is my sincere hope that with this united support the Congress will see fit to give this bill immediate consideration. This is important for several reasons. First, the adoption of this legislation will prohibit the manufacture and distribution of dangerously flammable wearing apparel. Second, the several States have been waiting patiently for action on the part of the Congress on this subject. If we procrastinate any longer manufacturers and distributors will be faced with the impossible task of trying to comply with a multiplicity of State and local statutes.

I am confident that the Interstate and Foreign Commerce Committee will expedite hearings on this legislation. The gentleman from New Jersey, Chairman Wolverton and his colleagues have indicated keen interest, the chairman recently saying legislation of this character is imminent.

Now I have here in my hand some indorsements from industry and as I proceed, Mr. Chairman and gentlemen, I want to make this very important statement: Based on my longtime experience in this subject matter, and my studies, I am convinced that we are not going to have Federal legislation unless we have the support of the majority segments of the clothing industry.

Heretofore we failed in our approach because we have not had that support.

The bills by Mr. Williams, Mr. Johnson, and your witness, I believe, have that support today.

I have here first a letter from Mr. John C. Hazen, vice president of the National Retail Dry Goods Association, addressed to me. Here is what he says:

"The National Retail Dry Goods Association numbering some 7,500 department, chain and specialty stores, wishes to express their sincere appreciation for your interest in sponsoring flammable fabrics legislation.

"It has been our privilege to work with various textile groups in developing language that would have universal approval. Your bill, H. R. 3851, is sup-

ported by cotton, rayon and wool interests. All of these groups have worked diligently to solve the problem of flammable fabrics. The Canfield bill is the answer."

Now, here is a letter from George S. Buck, Jr., technical director, National Cotton Council of America, addressed to me under date of March 24, 1953 [reading]:

NATIONAL COTTON COUNCIL OF AMERICA,
Washington 6, D. C., March 24, 1953.

The Hon. GORDON CANFIELD,
The House of Representatives, Washington, D. C.

MY DEAR MR. CANFIELD: Mr. John Hazen of the National Retail Dry Goods Association has asked me to state to you our position on H. R. 3851, which you introduced on March 10, 1953.

We believe that H. R. 3851 represents the best possible approach to the control of dangerously flammable textiles. As you know, we have steadfastly maintained that reputable manufacturers will and can eliminate such fabrics from commerce by voluntary means, rather than by legislative controls. However, we concede that the control of fly-by-night operators might still be difficult. Because of this factor, and because a number of States have made it evident that they will adopt their regulations in the absence of Federal flammability controls on this subject, we are giving our support to Federal legislation as the most suitable and workable means for assuring the public that no dangerously flammable textile material will be sold as clothing.

The industry has given very careful study to H. R. 3851 and has reached the conclusion that the bill in its present form is reasonable, workable and effective. We urge that hearings be scheduled at an early date, and that the bill be passed in its present form and enacted into law.

You are to be congratulated on having reached a formula on this delicate subject which satisfies all branches of the industry, from manufacturers to retailers, and which at the same time provides the public with the reasonable safeguards which should accompany the purchase of any clothing article. You can count on our support of H. R. 3851.

Very truly yours,

GEORGE S. BUCK, Jr., *Technical Director.*

I have another letter from the Society of the Plastics Industry, dated March 24.

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.,
New York, N. Y., March 24, 1953.

Hon. GORDON CANFIELD,
House Office Building, Washington, D. C.

DEAR SIR: Several years ago when bills were first introduced in Congress intended to regulate traffic in "flammable fabrics" we took an interest in them. By invitation we have had representatives appear before congressional committees to give information on plastics as they may be affected by these measures and to supply other data.

We are therefore very much interested in H. R. 3851. We hope that during the current session the Congress will take favorable action on this bill.

If hearings are held on the measure we would like to have an opportunity to be heard.

Very truly yours,

WILLIAM T. CRUSE,
Executive Vice President.

I have another letter by Mr. Paul H. Nystrom, president, Limited Price Variety Stores Association, Inc., New York.

LIMITED PRICE VARIETY STORES ASSOCIATION, INC.,
New York 36, N. Y., March 24, 1953.

Hon. GORDON CANFIELD,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN CANFIELD: The association that I represent is very much interested in having competent, fair legislation that will regulate the manufacture and sale of inflammable clothing and fabrics.

I have not seen your bill, but understand from Mr. Philip Schindel of the New Jersey Retail Merchants Association that you are proposing a measure that will properly meet these requirements. We would like to be recorded as in favor.

The Limited Price Variety Stores Association represents 7,400 variety stores, both chain and individually owned throughout the entire United States. Articles of clothing and textiles are sold in large quantities throughout these stores.

Best wishes.

Sincerely yours,

PAUL H. NYSTROM, *President.*

Here is a letter from Dr. F. Bonnet (retired) adviser to the president, American Viscose Corp. It is a rather lengthy letter and I will read a portion thereof.

It reads:

DEAR CONGRESSMAN: In writing to you and expressing my hearty approval and support of your bill, H. R. 3851, I am representing the American Viscose Corp., the largest producer of rayon and also the American Association of Textile Chemists and Colorists (AATCC).

The American Viscose Corp. has been much interested in having Federal legislation to prevent the use of flammable fabrics in wearing apparel so as to minimize as far as possible the often pathetic disfigurement and sometimes fatal injuries which result from the accidental ignition of flammable wearing apparel. Details of a few of the hundreds of such injuries were cited in my statement at the hearings before the Committee on Interstate and Foreign Commerce, House of Representatives 80th Congress, 1st session, March 4 and 5, 1947, page 81 of the printed record in connection with H. R. 505 (Canfield) H. R. 601 (Johnson) H. R. 1111 (Arnold) bills.

The American Viscose Corp. quite sometime before the cowboy suits' accidents in Washington, D. C., was interested in preventing the use of rayon in flammable fabrics for wearing apparel. Although it did not manufacture fabrics it did have a quality control plan, and copyright registered tags, which were never issued for brushed or similar flammable fabrics even though made of its rayon, when it considered them dangerously flammable.

When burning accidents did occur, attention was usually directed to the synthetic fibers, although many of the accidents were due to fabrics made of the natural cellulosic fiber cotton. In fact, the original California bill was directed against synthetics for it made it "unlawful to manufacture, sell * * * any article of wearing apparel * * * more highly flammable than cotton cloth in its natural state." This was subsequently amended to read "any article made from or containing natural or synthetic fibers determined by the fire marshal to be so highly flammable as to constitute a dangerous risk of fire and hazard of injury to persons" after a public hearing in Sacramento attended by an American Viscose Corp. representative. Thus, briefly you will understand the position which has been taken by the American Viscose Corp. in the public interest so as to include all dangerously flammable fabrics in any legislation and why it wishes me, as its representative to express to you its approval of H. R. 3851.

Then, several other paragraphs and the closing one reads:

As the representative of the American Viscose Corp. and of AATCC, may I again express not only approval of H. R. 3851 but the sincere hope that it will soon be enacted into law by the present Congress.

I have another letter, an interesting letter which comes from Macy's, signed by Mr. Ephraim Freedman, director, Macy's bureau of standards, addressed to me.

MACY'S,
New York, March 26, 1953.

HON. GORDON CANFIELD,

Congressman, House Office Building, Washington, D. C.

DEAR CONGRESSMAN CANFIELD: This morning's mail brought to me a copy of H. R. 3851, the flammability bill which you introduced in the House of Representatives on March 10, 1953.

As one who has long sought the elimination in commerce of highly flammable articles of wearing apparel in fabrics intended for use in garments, I take this

opportunity to extend to you this letter of appreciation for the introduction of this bill. I know that should it be enacted into law, it will do much toward giving the public a good measure of protection to which it is justly entitled.

Should any opposition to the passage of this worthwhile measure develop, you may feel free to call upon me to do all in my power to assist in either removing, or in counteracting such opposition.

Sincerely yours,

EPHRAIM FREEDMAN,
Director, Macy's Bureau of Standards.

Now, reference has been made, Mr. Chairman, to the flammable fabric standard formula developed by the Secretary of Commerce and the Bureau of Standards. It is my hope that during these proceedings you will call to the witness stand representatives of the Bureau of Standards who were instrumental in connection with industry in developing this formula.

It is my understanding that this agency of our Federal Government believes it has worked out—industry concurring—the best possible formula, and it has been working on this for years. It is my understanding that the representatives of the agency of our Federal Government, the Bureau of Standards, are prepared to defend that formula and when reference is made to the industry having so much to say in changing it, I think it ought to be emphasized right here that if the formula is a good one, it should be noted in H. R. 3851, that any change suggested by industry can be vetoed by the Secretary of Commerce.

So, there is still Federal control, full control, over the formula pattern.

Now, I note from the chairman's reading of the letters from the executive department that the Assistant Secretary of Commerce, Mr. Sheaffer, expressed some concern over the matter of the guaranty as developed, in State approaches, and he pointed out that under State and local statutes, the innocent retailer was often victimized,

Now, the purpose of my change in the guaranty provisions is to protect that innocent retailer and if he receives a guaranty from the manufacturer, in good faith, he cannot be held liable for selling an article that is highly flammable.

Mr. Chairman, with permission to revise and extend my remarks, I believe that that is all I have to present at the present time.

The CHAIRMAN. You have that permission.

Mr. DOLLIVER. Mr. Chairman.

The CHAIRMAN. Mr. Dolliver,

Mr. DOLLIVER. Mr. Canfield, I would like to call your attention to the fact, if someone has not already done so, that in one of the current women's magazines—I believe it is the Woman's Home Companion, just on the newstands yesterday, my wife called my attention to the fact that there is an article in there concerning this bill, and you are named as sponsor of this legislation. Have you seen that?

Mr. CANFIELD. I was unaware of that, may I say, Mr. Dolliver, but I hope that the article is favorable.

Mr. DOLLIVER. It is favorable; very favorable to your bill.

Mr. CANFIELD. I am going to get extra copies of that magazine. Perhaps I will want to appear before your committee again.

Mr. DOLLIVER. Now, I would like to make this inquiry. This is not the first time that you have had this legislation before us?

Mr. CANFIELD. No.

MR. DOLLIVER. In order that the record may be clear, I wish that you would indicate how far, in previous sessions, in previous Congresses, your legislation has progressed along this line.

MR. CANFIELD. As the chairman pointed out earlier in these proceedings today, Mr. Dolliver, the Senate in the last Congress, in the closing days, passed a bill. I believe it was known as the Johnson bill. The House in the closing days of the last session of the 82d Congress reported out a bill somewhat similar to the Johnson bill. That was 2 or 3 days before adjournment and we could not get unanimous agreement on the floor of the House. I believe that is the furthest we have gotten toward enactment of a law.

MR. DOLLIVER. My recollection is that you have always had a very friendly and favorable reception from this committee on this legislation.

MR. CANFIELD. That is indeed true.

MR. CARLYLE. Mr. Chairman—

THE CHAIRMAN. Mr. Carlyle.

MR. CARLYLE. Congressman, I just want to say that you have made a very fine statement and a very helpful statement.

MR. CANFIELD. I appreciate that very much.

MR. HESELTON. Mr. Chairman.

THE CHAIRMAN. Mr. Heselton.

MR. HESELTON. Mr. Canfield, do you have any comments to make on the point of the constitutionality raised by the Assistant Secretary of Commerce?

MR. CANFIELD. No; in all frankness, Mr. Heselton, I am not a constitutional lawyer and I am not prepared to elaborate on that challenge. I am mindful of the fact that you are and perhaps some time during the proceedings you might be helpful in that respect.

MR. HESELTON. I appreciate that you might not want to comment on that particular aspect of it, but I thought some comments may have come to you or probably you might have something you could tell us about the interest among the industry as to that particular feature.

MR. CANFIELD. I cannot repeat too often, Mr. Heselton, my firm conviction, and I believe it is the conviction of the members of this committee who are aware of the history of this legislative effort, we are not going to get a law unless the majority segments of the industry are going to go along with it.

Up until this last year we have been beaten down. We never got anywhere, because we did not get the rayon, the cotton, and the woolen people, the retailers, all of these people together. We have gotten them together now, and I would hate to think, because of this challenge, which is new to me, that there would be no legislation in the 83d Congress.

MR. HESELTON. Do you think that industry regards that particular provision as so important, that they would not go along in any change in the formula?

MR. CANFIELD. Well, as the bill points out, and as I pointed out, the bill gives the Secretary of Commerce a veto power, and I hope that this committee will call Dr. Appel, and other Bureau experts who, over a period of years, have been working on this formula, to ascertain just what they think about it, and how, and how long it will stand up as a good formula.

Mr. HESELTON. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. Mr. Chairman, I have no questions, but having been interested in this subject for quite a long while myself, along with Mr. Johnson, and Mr. Canfield, I simply want to commend the gentleman from New Jersey (Mr Canfield) for his continuing interest and very fine statement.

Mr. CANFIELD. That is just like you, Mr. Priest, and I appreciate that very much.

Mr. ROGERS. Mr. Chairman, I would like to commend the gentleman also, and I would like to ask the gentleman whether he has given any thought to the cost of the administration of this bill.

Mr. CANFIELD. The administration would be under the Federal Trade Commission, of course, and undoubtedly new funds would have to be appropriated. Now, how much, I do not know.

Mr. ROGERS. You do not know how much would have to be appropriated?

Mr. CANFIELD. I do not know.

Mr. SPRINGER. Mr. Chairman.

The CHAIRMAN. Mr. Springer.

Mr. SPRINGER. I think, Mr. Canfield, before I ask any questions that I have notes on here, I want to say that you have made an excellent statement here of your position and I certainly wish to commend you on it; and this legislation, I will say, has my support.

Now, I have looked with some qualms upon these two sections of this bill having to do with injunction and condemnation proceedings—the injunction, primarily, is the first one, and the other one having to do with the guarantee.

Now, it is my understanding from the way I read these two sections, put together, that I am a retailer, we will say, in Camden, N. J., or Champaign, Ill., that if I am selling goods which are, we will say, flammable, according to these standards, they may come into my store and find them and they may get an injunction against me to keep me from selling them. That is one point I raise. That is right?

Mr. CANFIELD. That is right.

Mr. SPRINGER. That is, resale at the retail level.

Mr. CANFIELD. That is right.

Mr. SPRINGER. Now, secondly, in addition to that, it is not possible however for them to prosecute this man for selling—that is, the retailer—under the guaranty provisions. Am I right on that?

Mr. CANFIELD. That is true. It is my understanding if he had the guaranty——

Mr. SPRINGER. If he has the guaranty?

Mr. CANFIELD. From the manufacturer.

Mr. SPRINGER. He cannot be prosecuted. You see the spot that the retailer would be in. I mean, he does not have the machinery for testing all of the garments that he sells and I do not see how, if he has a guaranty from the manufacturer, how we can hold him. It seems to me that would be impeding the flow of goods.

As to that, I think you are perfectly reasonable in that first step. I want to go to the second step. This is the one that bothers me. Suppose that he, in good faith, under a guaranty, buys, we will say, \$25,000

worth of spring material from this particular company and we will say that on April 1, the beginning of the spring season, the Government comes in and files an injunction against him. He cannot sell those goods. Now, he is stuck for that.

Now, the season passes—and I have found under these Government injunction things—and this bothers me—they never get to a hearing. They get a temporary injunction and, he never gets to a hearing. They get a temporary injunction or restraining order, without bond, which means, when they get that, no matter what they are able to prove later on, with regard to whether it is inflammable or not, that there is nothing that can be done to insure that man for what the Government has done against him. Now, he may have lost all of his \$25,000 worth of goods in that spring, because of that injunction, it may not be heard for 9 months or a year.

Mr. CANFIELD. Does not that come right down to whether it is a matter of good administration? I fear that the gentleman, from his previous statements, does not have a great amount of faith in the Federal Trade Commission. But, boiling it down, it comes down to good administration; is that no so?

Mr. SPRINGER. I think you are probably right. Let me give you an example. Suppose—and this does happen. Let us just take the Bureau of Standards—and I am not going to go into the merits of the case, but we have one administrator of the Bureau of Standards who comes up with the finding that the material added to a battery does not do what it is claimed it will do, and the Secretary, I understand, gets a reputable scientist from the Massachusetts Institute of Technology who says that it will.

Now, suppose that the manufacturer does the same thing, comes up, a perfectly reputable person, and says this—and I think that these standards have been worked out closely—maybe that is not quite the same thing—but I do think where you can get a restraining order, where you are getting into a thing which is highly seasonal like these goods, that is something that raises a serious question in my mind.

I think for some years we have had in these bureaus, including the Bureau of Pure Foods and Drugs, we have had law by injunction. Nobody ever starts out to prosecute anybody. They start out to get an injunction from the beginning.

Mr. CANFIELD. Mr. Springer, I think that the best answer to your question is this: The retailers of the United States of America are all for this bill. They all want it. I do not believe we are going to have a retailer come in here opposed to it.

Mr. SPRINGER. Suppose that we do not. Suppose that you have a manufacturer——

Mr. CANFIELD. Well, we have heard from them. I have not heard of any manufacturer saying that he was opposed to it.

Mr. SPRINGER. Let me ask this. Suppose that we have a manufacturer that is caught in this. Every person to whom he has sold certainly is going to get an injunction against him.

Mr. CANFIELD. We have got the cotton people, the wool people, the rayon people, we have got all of these people marching together now. This is the first time we have ever been able to get them behind this legislation.

Mr. SPRINGER. I do not think that anyone would be opposed to the principles and purposes of your bill but I just am not in favor of this theory of injunctions. I have had some experience with that in the past. I think that the biggest objection to Government bureaus is their doing business under injunctions and not prosecuting under the common law. They proceed by injunction as the first method regardless of whether there is an emergency or not.

Mr. CANFIELD. I know how the gentleman feels on that.

The CHAIRMAN. Are there any further questions, gentlemen?

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. As to the point that Mr. Springer has raised, I think perhaps it might be advisable for the committee to inquire into whether or not the principles that are followed in the Food and Drug Act should not be applicable here, where the merchandise is seized by the inspector and taken over, in which case, I think—although I am not sure—it might involve some action before the Court of Claims.

Mr. SPRINGER. That sounds to me like a more reasonable solution to the whole thing.

Mr. HINSHAW. Perhaps that should be looked into by the committee.

The CHAIRMAN. Are there any further questions, gentlemen?

If not, I would like to make inquiry as to why you are so convinced that a more drastic law than that which you are recommending to the committee could not be enacted?

Mr. CANFIELD. I would like to understand the chairman a little better. I wonder if he would elaborate.

The CHAIRMAN. I say, in view of the statement that you have made that you are definitely of the opinion that it would be impossible to get any legislation through Congress that would go beyond the provisions of the bill which you last introduced. What gives you that feeling that it would be impossible?

Mr. CANFIELD. Mr. Chairman, I do not say my bill, the bill that I have introduced, is the last word on this. My bill is not sacrosanct. Certainly my bill is open to amendment and all that. But I do know this, that currently, today, all segments of the industry tell me at least that they are behind this bill, and this is the first time that they have ever told me, or any sponsor of any bill anything like that.

Now, it may be developed in these hearings that I am wrong, but I believe what I am telling you now. I believe that. And, I believe too, that if this approach is drastically changed, we may lose some segments of the industry and that loss will be reflected on the floor of the House and Senate to the extent we are not going to get any bill. I believe that, sir.

The CHAIRMAN. You have in mind, however, that the bill which the Senate passed in the last session was similar to the bill which you first introduced this year?

Mr. CANFIELD. Yes, sir; indeed that is true.

The CHAIRMAN. So it did get Senate approval.

Mr. CANFIELD. It did get Senate approval.

The CHAIRMAN. And it had the approval of this committee?

Mr. CANFIELD. That is right.

The CHAIRMAN. Now, do you think that under the circumstances the Senate made a mistake in passing that bill and that this committee made a mistake in reporting that bill out and that you made a mistake in introducing that bill as your first bill and I made a mistake in following your lead in likewise introducing it?

Mr. CANFIELD. I would never make any such statement, nor would you ever make any such statement, Mr. Chairman.

The CHAIRMAN. I do not get the significance of it.

You mean that mistake was not made?

Mr. CANFIELD. No; I think that your colleague and friend from New Jersey knows when he is being kidded, but I do want to say this to my distinguished and able colleague, that I worked with might and main on the floor of the House during the last several days of the last session of the 82d Congress to get some floor action, and I found out it was impossible because there were some doubts. And where did those doubts come from originally; where were they expressed originally? From the leaders of certain segments of the industry involved, and we did not get anywhere, and I spoke to you, and I spoke to other gentlemen sitting around the table this morning along those lines. I said, "Can't we do something? Can't we do something?" And you recall that we ran up against a roadblock.

The CHAIRMAN. In other words, you do not want to infer that these folks, by their refusal to accept the legislation that was passed by the Senate and passed by the committee and finally failed of passage by the House only because it required unanimous action, that they had made a mistake and that industry is not willing to think in terms of public interest?

Mr. CANFIELD. Mr. Chairman, I am not inferring anything. I am just telling you what I know. I am not inferring anything. I am telling you of my own experience. I do not know what is in your mind. I do not know that.

The CHAIRMAN. Well, it is a strange situation, in my opinion. We introduced in the last session, as we have introduced in previous sessions, bills that were much more drastic than the ones that are now being sponsored by you and Mr. Johnson.

I thought we were doing the right thing when we did what we did before, and I do not gather why we are not doing the right thing if we stand back of what has already been done.

I was on this committee when we passed the wool-labeling bill, which required a label to be placed on the product showing the quality of the wool—

Mr. CANFIELD. (interposing). May I say something about that?

The CHAIRMAN. May I just finish, for just a moment?

Mr. CANFIELD. All right.

The CHAIRMAN. And that legislation was fought hard. It did not pass immediately. But eventually it did pass. It passed the House, passed the Senate, and it was approved by the President.

The law has now been in effect for many years, and it has worked most satisfactorily.

We had a similar experience when we tried to label fur. We saw the many, many injustices that were being practiced in the sale of fur, under deceptive advertising where rabbitskins were being sold for mink, and so forth and so on, without the general public always

knowing that fact. We require by legislation that a label be placed on the fur so that the consuming public or customer would know the quality that he was purchasing. That has worked out very satisfactorily; yet it was severely fought, severely fought, and fought by the trade and by the industry.

Now we come to a matter that goes beyond mere deception—something that goes to the very life and welfare of the individual that wears it. Therefore, it seems to me, looking at it just as a matter of public interest and from a public-interest standpoint, that if there was ever a case that required legislation that should be effective it should be that which is designed to protect the life of individuals, and in most instances small children.

Now, having followed your leadership, if I may put it that way, and seriously—knowing that you had made the study that you had; you introduced H. R. 389 before my bill was introduced—I was under the impression that a bill that had passed the Senate and had passed this committee and gone to the House and was only prevented, I think, from passage by the fact that it required unanimous consent in the closing days of the session, I thought that we were commencing where we left off and that we would be just that far ahead.

I think maybe you had the same feeling—as to what your thoughts were, I do not profess to state—but you introduced 389, which is the same as the one which passed the Senate and passed this committee and was on the Calendar of the House.

I introduced the same bill. Now, nobody came in and told me that industry would not stand for it.

Then you introduced another bill, and another bill was introduced by Mr. Johnson to change what we have already done, and I am interested in knowing how far in the public interest we are justified in letting down the bars so that we could say that the industry itself will approve of this? I am very anxious to go along with industry, but I am more anxious to go along with what I consider to be the public interest.

Mr. CANFIELD. That is right. Now, may I say to the chairman, men of industry came to me perhaps because I have pioneered in this legislation. I am sorry they did not go to you as chairman of this committee, if they did not go to you.

The CHAIRMAN. They probably assumed that I would follow your leadership on this as I did on the other.

Mr. CANFIELD. You will recall, I am sure, that I told you that I had no pride of authorship. I urged you to become the sponsor of the bill, and I said this, among other things, that I hope there would be passed in this Congress a Wolverton flammable fabrics bill which would be a monument to you and your interest.

The CHAIRMAN. I would rather that the bill would be a monument to you on the basis of 389.

Mr. CANFIELD. Now, let me say this, too. My chairman and my colleague from New Jersey has mentioned the **Wool Labeling Act**. May I say, in all humbleness, the author of that act was my distinguished chief and predecessor, whom I served as secretary on Capitol Hill for 17 years. He died here in Washington, D. C., just a day or two before that bill was passed by the House of Representatives; and it was his colleague and friend, Mr. Wolverton, of New

Jersey, who took up that, his banner, and went on the floor of the House and told the House that this bill, the Wool Labeling Act, ought to be known as the Seger Act, a monument to the memory of George N. Seger. Now that is true, is it not, sir?

Now I know about that, and I know how he pioneered in that movement. I know how close it was to him. But he was the sponsor of that legislation, and I know how you felt about it, and I wish I could have heard you on the floor of the House when you eulogized your dean that day. You are my dean now, and no one in Congress respects you more than I.

So I hope that all of these differences will be resolved and we will get a good bill, and I would love to see it reported out by this committee as the Wolverton bill.

The CHAIRMAN. Now just a moment. Let us get this settled as to whose name it shall bear. I am not interested in it carrying my name.

Mr. CANFIELD. Nor I.

The CHAIRMAN. I am interested in giving you an opportunity to present your suggestions and I would be hopeful that we would be able to have this bill, 389, carried as your bill.

Mr. CANFIELD. I am sorry that I am not going to be here when you testify.

The CHAIRMAN. Would you feel that 389 would accomplish the purposes that we have always had in mind?

Mr. CANFIELD. I was for 389, when I sponsored it. I never introduced a bill I did not believe in, but when I heard from the major segments of the industry involved in this problem that 389 was not wholly acceptable to them, but they could agree on 3851, I said in the interest of getting results, I would go along with them, and I introduced that bill. Before I introduced it, however, I suggested to you that you perhaps would like to be the sponsor of that measure, but as you indicated, you were thinking along the terms of 389.

The CHAIRMAN. Do you think it is wise from the standpoint of legislation for us to pass a bill that fixes a formula that can only be changed when 65 percent of the industry agrees that it shall be changed.

Mr. CANFIELD. I think that that question is a debatable question, Mr. Chairman.

The CHAIRMAN. In other words, you would favor the delegation by Congress to an industry or 65 percent of an industry to determine what the law should be?

Mr. CANFIELD. I do not know of any precedent, Mr. Chairman, but I believe perhaps there are some. I wish I had time—

The CHAIRMAN. I have never heard of any to that extent. Maybe my knowledge may be limited; but I have never heard of any to that extent. I see where we would get into great difficulty if we prefaced the passage of legislation on the fact that it could not afterward be changed by the legislature, but would have to be changed by an industry vote.

Mr. HALE. Mr. Chairman, what would be the test of what constituted the industry? Would you count the number of units in the industry or the number of dollars invested in the industry? How would that be determined?

The CHAIRMAN. I do not know. Those are questions that come to my mind, too.

Mr. CANFIELD. May I say, Mr. Hale, that it was not industry alone that was called in. All interested parties were called in. I believe the women's groups and other groups that have long been seeking this type of legislation were called in consultation, and so forth.

The CHAIRMAN. In other words, suppose that there are 5,000 in the industry. I do not know how many there are. Now, 65 percent of the 5,000, even though maybe 100 of them produced 97 or 98 percent of all of the products——

Mr. CANFIELD (interposing). Well, all people in this industry belong to these organizations, these associations, whose letters I have read here today, and I do not know—I assume, that those organizations with representation here in Washington, would probably speak for their respective constituent parties. But, whoever they would be, there are some wonderful men of industry here today.

The CHAIRMAN. Is there anyone familiar with how the vote is taken of the industry; how it would ascertain who that 65 percent is, as Mr. Hale's questions indicate? How would that be ascertained?

Mr. CANFIELD. I am sure these witnesses will be able to elaborate on that.

The CHAIRMAN. There are some wards in my district, where if the vote were taken there, I would not be here. It is very important certainly as to what elements enter into the voting processes.

Mr. CANFIELD. I understand, Mr. Chairman, that there is a representative of the Department of Commerce here who would have an answer to that question.

The CHAIRMAN. If he has no better answer than I read from the statement I have from the Department of Commerce, it would not be very convincing. Maybe he has something better than I have already read.

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. Mr. Canfield, is the major difference between the bill you introduced first and the bill which you are now sponsoring, the provision as to the formula?

Mr. CANFIELD. That is right; and the guaranty clause.

Mr. HESELTON. It refers to those changes?

Mr. CANFIELD. That is right.

Mr. HESELTON. That is the heart of it?

Mr. CANFIELD. That is true.

The CHAIRMAN. Are there any further questions?

Well, we wish to express our continuing confidence in the efforts that you are making, Mr. Canfield; the continuous efforts upon your part to produce legislation and that will be helpful in this important matter, and we appreciate the help that you have given us this morning. I hope that you will not take any questions that have arisen as anything except a desire on the part of the individual members of the committee, including myself, to just know where we are going and what we are doing.

That is all. The committee will give it the fullest possible consideration.

Mr. CANFIELD. Mr. Chairman, you will never really realize how much I appreciate that last statement. Thank you.

The CHAIRMAN. I see our colleague, Mr. Johnson is here, who is also supporting a bill dealing with the subject, which is identical with that which has been spoken to by Mr. Canfield, and which he sponsors. Is that true?

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. Mr. Johnson, we will be glad to hear you.

STATEMENT OF HON. LEROY JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Mr. Chairman and gentlemen of the committee, I do not know that I am sponsoring the bill. I will explain my views on the bill. I want to suggest that I talk with you informally and have permission to file my formal statements, which are statements by me, and one by the State fire marshal of California, who administers a similar bill.

The CHAIRMAN. Is that for or against any particular bill?

Mr. JOHNSON. I beg your pardon.

The CHAIRMAN. For or against any particular bill?

Mr. JOHNSON. Those two letters are against the bill which bears my name.

I might say that my bill was introduced by request. I think I am the pioneer author of a bill of this type in the Congress. In the 79th Congress I introduced a bill, and I think California is the pioneer State that has this kind of legislation.

My interest in introducing a bill came from an editorial of the Sacramento Bee, which is located at our capital, and he was interested in the California law, but thought that to make it effective it should cover the entire nation and not just one State, because many of our fabrics in California come from elsewhere.

So, I introduced the bill. I have introduced six different bills since then.

The CHAIRMAN. I want to say to the gentleman from California that as is so frequently the case, California does step out in front on important matters and in the hearings that we have previously held on this type of legislation that which has been done in California has been before the Committee in its deliberations, with a feeling that it was a pioneer in this very important subject, and their legislation and the manner in which they have dealt with it has been helpful to us in our considerations from a Federal standpoint.

Mr. JOHNSON. I appreciate that, Mr. Chairman.

In 1946 when I introduced that first bill, Mr. Lee was the chairman of this committee and I talked to him about my bill, and he suggested that he would designate Mr. Priest to work with me and see if we could develop a sound bill that would protect the public, and so at that time we were dealing with the Bureau of Standards. Mr. Ingberd was the man who had this particular phase of activity and he very kindly, as well as the industry, a great many members of the industry who are here today, conducted some experiments in my office which were viewed by Mr. Priest and myself and they impressed us with the need of finding some type of legislation to protect the public.

Now, I want to make myself very plain, that the bill that I have sponsored was suggested by the National Retail Dry Goods Associa-

tion and I, very much like you, just goose stepped with Mr. Canfield and though if he took the bill of the industry and sponsored it, it must be a good bill; but I want to make this very plain, so far as I am concerned, I do not care who authors these bills, or how they get passed. I want a bill, the primary object of which and the basic purpose of which is to protect the public that wears these fabrics.

I have gone into this. For instance, in California, we have had 40 deaths, as set out in the letters that the State fire marshal sent me; 40 deaths, since 1946, and we have had 42 persons injured, and in looking into the matter back in 1946, 1947, and 1948, we found that there were no reliable statistics on how dangerous these fabrics were to the public. Mr. Ingberd has a statement which I am going to include as a part of mine, showing that they made a large study in 400 hospitals. Now, the reason we are so weak in our statistics is that in going to the insurance companies, which pay damages for these things, it does not indicate what kind of fabrics the people wore that were injured or burned and even killed.

For instance, the young lady down in Texas, Texas University, while we had one of these bills pending, was going to a party and she had some flimsy clothing on and had a veil over her hat and she went to light a cigarette, and it flashed up so fast that it killed the woman in just a few minutes.

Now, the report on that does not go into what the fabric was. It just says that she died of burns and tells how they were caused, and so I think that the danger, as manifested in these injuries or in these deaths, is far greater than we think it is.

The secondary industry, as I see it, that I want to protect, is the retail dry goods people of America that handle these clothes and clothing. Under the warranty clause, when they sell a fabric to a lady for making a dress, from the warranty that is carried she believes that that is a fabric that can be worn without any danger.

The retailers have been subjected to numerous suits all over the country, in our State and in this part of the country, and I think also in the Middle West, and they have no recourse. They warranted that the cloth would be fit to wear—would be fit, you might say, “for human consumption,” just like the food is warranted that they sell to the public. But, their interest is secondary, and I honestly do not think it would be wise to repose the final determination of what is dangerous in the hands of the industry. I did not know that the bill did that.

And, the delegation of the power to the industry, I believe, is probably unconstitutional.

Some of the gentlemen here have raised some of the questions involved. What ratio would 65 percent be?

I want to be thoroughly honest with the industry whose bill I have sponsored, but I want to be honest with the committee and the public, especially.

Now, when the retailer buys these goods. He naturally assumes that the manufacturers are selling garments that are fit to wear and that are not dangerous.

Everybody, almost, of age smokes and you know it could be suggested that there is danger of having the fabrics made into garments.

Several years ago while I had one of these bills—as I say, I have had seven of them—and, when we got to the 82d Congress, I simply quit. I said that it was so frustrating, “I cannot work with this anymore. I have other committee assignments, and I have other things that interest my State,” and, I gave up.

This bill just came to me to be introduced by request.

I was down at Charlottesville over the Easter holidays, and passing from a golf course into town I noticed that they had something there I think they called the Cotton Institute. I am not sure of the name. I just thought that I would take a look, and I walked in and talked with the gentlemen there about my bill. The bill that I had introduced, and every bill that I have introduced is one in which the tests would be made by the Bureau of Standards, and if it did not comply with that, then it would be banned.

The gentlemen over here from Indiana mentioned the injunction. In those earlier bills I purposely emphasize the injunctive features and had a very small penalty; very small penal provision, where the total fine could only be a thousand dollars. Why did I do that? The purpose was that if that kind of a fabric under a Government test, which is objective and independent, showed that it would be dangerous, you could get an injunction against the retailer or against the manufacturer from putting it into interstate commerce.

It is perfectly true that sometimes the work of the Food and Drug Administration is very clumsy. We just had one of those situations which was called to my attention last week, concerning some beans in our country, but after all, I think we should remember that as the chairman has intimated here, and those letters bring out very clearly, that what we are trying to do is to see that America wears safe clothes, which cannot injure people, and I think we can do that, and I want to be frank with the industry and tell them that I do not think 65 percent of the industry or any percent, should sit down and tell the world what kind of clothes America should wear. That is something that the National Government or the State governments ought to do, primarily.

We have fine standards for buildings and all of those other things. Who are they made by? They are not made by the building industry. They are not made by the contractors. They are made by the municipalities, counties, States and perhaps we have national ones. I do not know. But anyway, the Government has the interest there to protect human life against this danger.

Now, another matter was mentioned there that I think maybe is a little off the specific consideration of this bill; but in going into the matter, for instance, I found that there is a certain kind of a button made. It was tested in our office that day. It is deadly. If that ever got afire, on a woman's dress, or a man's coat, it would almost burn him to death before he could do anything about it, it burns so intensely. I have a vivid recollection of how intense the fire of those synthetic buttons is. Maybe we should find a way to protect the public against that.

I also call your attention, Mr. Chairman—you did not mention this—but there used to be—I am not sure about the present day—a great many toys that are very flammable and the reason I mentioned it is that my children, both of whom are now married, of course played

with toys. I saw the State fire marshal of California making some demonstrations before a group of men about toys, and I had been buying toys for my children; usually the plastic types of toys and he showed how intensely dangerous they were.

You mentioned, I think, curtains, carpets, maybe tablecloths, and many things in the household—not many—but some, perhaps—I assume there are some, or the Federal officials would not have mentioned them—that are dangerous to human life.

Now, I do not know whether the bill could be expanded, but at one time I had the idea and it seemed to me that I should put in a bill which would just go across the board and cover everything, and if that could be done, it would be that much better, because people are burned by these things in the houses. We hear of that everywhere. You have heard of it. All of us have heard of it.

But assuming that we can only apply this bill to fabrics, my thinking is along the line indicated in those letters, and the thinking of the chairman, that we must first have the test made; the ultimate result must be as to the type of test that the Government considers adequate to safeguard the public.

Now, that is all. I do not see how that could interfere with the industry.

I want to see the retailers of this country, who are honorable men, and intelligent men and women—1 of them managed 6 campaigns for me successfully, so you can appreciate that I like retailers—but they must realize that even if they get a guarantee from a factory or a manufacturer, that the only purpose is to safeguard the public. Just passing that guarantee on to the public and saying, “Well, you were burned. That is just too bad. We cannot do anything about it and the law does not permit you to sue us anymore.” I do not go along with that. That merely makes an errand boy out of the United States Government, to the effect that it has got to accept what some segment of one industry wants them to do.

Now I am really not supporting my bill at all, perhaps. There are some fine things in here. Maybe the bill could be modified. As I say, it does not make a particle of difference to me whose name is on this bill and I think that an appropriate bill should be enacted and that the proper name on a bill like this would be the name of someone on this committee, especially the chairman, and I am pleased with the fact that the chairman has taken an interest in this, because it is important, I think.

But, the thoughts that were expressed there, the constitutional doubts that were voiced by those who wrote those letters are also in my mind, and we want to resolve those if we can.

Now, that in brief is what I have to say, in general, about this bill, about the general subject, and I assume that I have the privilege of revising and extending my remarks.

The CHAIRMAN. You have that privilege.

Mr. JOHNSON. And may I file my little formal statement here and the other documents?

The CHAIRMAN. Certainly.

Mr. JOHNSON. I want you to know that I appreciate very much the opportunity you have given me to come here. As you say, I really have been interested in this.

The CHAIRMAN. The committee has a great deal of confidence in you.

Mr. JOHNSON. I appreciate that.

The CHAIRMAN. And through the years, the experience we have had with you in seeking to have adequate legislation enacted, and the statements you have made here this morning while sponsoring a particular piece of legislation, cannot help but impress one with your sincerity and the high purpose that actuates you in all that you do in connection with this legislation and we consider what you say is very helpful to us in coming to a proper conclusion.

Mr. JOHNSON. Thank you very much, Mr. Chairman.

Mr. HALE. Mr. Chairman.

The CHAIRMAN. Mr. Hale.

Mr. HALE. Mr. Johnson, the legislation which you introduced which was referred to this committee back in the 80th Congress, if I remember, included all textiles; not merely clothing. Is that right?

Mr. JOHNSON. I believe that is correct, but I frankly have not read the bill for some time.

Mr. HALE. I wondered why you had narrowed the bill?

Mr. JOHNSON. You mean by textiles, curtains, and things like that?

Mr. HALE. That is right.

Mr. JOHNSON. In one bill I did; but I took that out. I thought that I was proceeding too far and I would have difficulty in getting it through, and later I only included textiles to be used for wearing apparel, and I think we included veils on hats and things like that; but I personally would like to see it go across the board and cover every kind of textile, it does not make any difference how they will burn or where they burn, because you can be burned to death by a tablecloth or a curtain; and it does not make any difference whether it is ignited by lighting a match, or how it is ignited, if your clothing gets on fire and you are burned. I want to protect the people against all of those.

Mr. HALE. The point that appeals to me, I thought a test of flammability which can be applied in a reasonable way. I simply do not see any reason why the bill should be limited to clothing, because as you point out, you can be burned to death by a flammable curtain or a flammable sheet, as readily as by a coat or by a suit.

Mr. JOHNSON. I think that the test might be a little more difficult, for instance, in rugs and things of that sort than in fabrics that go into clothing. The cotton man down there, at that research agency, was very much interested in the type of test. He said that the way to solve the problem was to have a Government agency determine the method and have one way of testing, and when anything got out of line with any manufacturer's line, he could take it over there and have it tested, or if later on it caused an injury to someone, it could be tested and traced back to who the manufacturer was, and he could rectify his methods of putting it together.

Mr. HALE. I think that the gentleman probably remembers that the only reason that we did not legislate in the 80th Congress was because we did not feel that we could find a sufficiently definite standard of flammability to use if the legislation was enacted. Practically everybody in this committee, back in the 80th Congress realized the danger and wanted to legislate.

Mr. JOHNSON. Well, I did not know that that was the reason. I thought that the program of the committee was heavy that they could not get it out.

Mr. HALE. That is my memory. I would not want to bind anybody else. But that is my recollection of the reason why we did not legislate 6 years ago.

Mr. JOHNSON. I went to New York and looked at some tests, how they tested cloth, one of the members of the industry having interested me as having a good test, but I was not an expert and I could not tell whether that was a real test. It interested me very much as being very simple. Anybody could try it.

But I do think that the person that sells wearing apparel should have the responsibility and be liable in the event that that wearing apparel is injurious to somebody because of its flammability.

Mr. HALE. I just want to ask one other question on the recommended commercial standard of flammability, section 4.

This refers to flammability of clothing textiles, "Recommended commercial standard for flammability of clothing textiles, TS-5131," which apparently is a Government, recognized Government, publication.

Where in the language of this bill do you find the 65 percent?

Mr. JOHNSON. I do not find it in the bill. And the reason I was impressed—to be frank with you, I read the bill rather hurriedly—was that there was a standard test by a Government agency.

I think the chairman read something from one of the letters which mentioned making some kind of an order of an agency whereby they could provide for a change in the test. There is something about a change here somewhere in the bill.

Mr. JOHNSON. It says that, in the same section reads: "That any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of commercial standard 191-53."

Mr. HALE. My attention has just been directed to a leaflet entitled "Voluntary Standards Adopted by the Trade." It seems to have been issued by the Acting Chief of the Division of Trade Standards, National Bureau of Standards.

Mr. JOHNSON. The National Bureau of Standards, of course, is a part of the Department of Commerce.

Mr. HALE. I have not examined this leaflet carefully, but there is one paragraph headed "Tentative Proposal Made" which reads:

The tentative proposal is presented to representative firms or organizations for advance comment leading to preliminary adjustment, followed by circulation more widely for comment and adjustment by the entire industry. When the original proposal has been adjusted to meet the desires of the majority, it is circulated to the entire trade for written acceptance. If acceptances are received representing at least 65 percent of the volume of business, and there is no active valid opposition, the National Bureau of Standards promulgates the standard as a voluntary standard of the trade, issued as one of a printed series of commercial standards.

Now I infer from that that the National Bureau of Standards will promulgate a standard if they get enough votes from the industry.

Mr. JOHNSON. Well, if I understand it, you can construe that to give a little larger change than it looks like they have by the Government.

Mr. HALE. It deals with this 65-percent business. I would suppose that the standards might fluctuate from month to month. What would satisfy 65 percent in January might not please them in June.

Mr. JOHNSON. I can understand the flexibility of that section as well as the uncertainty of it. I mean as to the 65 percent. I think that you pointed out or asked whether it was in dollars or in volume of trade or each unit, no matter what its size. Of course, I think we would have to find a way, if we can, to get the industry to go along with us, and I think certainly their lawyers will recognize those constitutional difficulties. I believe they will.

Mr. HALE. Well, as far as the committee is concerned, I would welcome the support of the industry, but we legislated in connection with wool fabrics and furs without, by any means, unanimity in the industry, and I would not hesitate to legislate in this field if I thought we were doing a job in the public interest, even if there was the strongest dissent from some segments of the industry.

Mr. JOHNSON. I want also to make this statement for the record. No deception has been practiced by me on the industry. Very frankly they said that they had a very good bill. Knowing of my interest in this and two other very fine members having introduced a similar bill, they asked if I would like to present one, and I said I would be glad to do so; but I also want to say, if it has some of those lurking provisions that I did not think were there, I want the thing modified so that the Government has the upper hand in the matter, so as to afford the protection our people are entitled to.

The CHAIRMAN. Are there any further questions?

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. Mr. Johnson, your bill is similar to H. R. 3851?

Mr. JOHNSON. Identical. Also the chairman has an identical bill.

The CHAIRMAN. No; it is not similar to H. R. 3851.

Mr. JOHNSON. What?

The CHAIRMAN. No; it is not similar to H. R. 3851.

Mr. JOHNSON. I thought you did. I thought we compared them.

The CHAIRMAN. Not with mine.

Mr. JOHNSON. Not with this?

The CHAIRMAN. No.

Mr. JOHNSON. Well, I am glad that you have corrected me on that.

The CHAIRMAN. I put the first one in. I think Mr. Williams has introduced another one within the last few days similar to your bill.

Mr. JOHNSON. What is the number of his bill?

The CHAIRMAN. H. R. 4500.

Mr. HESELTON. May I ask you if you know whether the California law contains any provision such as the one that Mr. Hale just discussed?

Mr. JOHNSON. I do not know whether it does or not. I do not think that it does.

Mr. HESELTON. I think, Mr. Chairman, if the committee does not have the California law, we should have it.

The CHAIRMAN. We will have it.

Mr. JOHNSON. Thank you very much. Is a copy of our California law available to your committee, Mr. Chairman? If not, I think I have one that I might put in the record.

The CHAIRMAN. I think it was made a part of the hearings previously held.

Mr. JOHNSON. Would you like to have me put it in these hearings?

The CHAIRMAN. Yes.

Mr. JOHNSON. I believe the fire marshal sent me a copy of it, and I can put it in if you would like to have it.

The CHAIRMAN. Very well. Has it been amended since the original law was passed?

Mr. JOHNSON. I do not know. Frankly, I do not know.

The CHAIRMAN. In other words, I would not want to put anything in the record that did not represent the law at the present time.

Mr. JOHNSON. The one I have, no doubt, would be a copy of the latest law.

The CHAIRMAN. Are there any further questions? If not, that will conclude the hearings for the day.

(The letters above referred to dated April 7 and 22, 1952, from the fire marshal of the State of California are as follows:)

STATE OF CALIFORNIA,
STATE FIRE MARSHAL,
Los Angeles, April 22, 1952.

Re IC-14.

Mr. HERBERT A. EHRMAN,

*Commodity Standards Division, United States Department of Commerce,
Bureau of Foreign and Domestic Commerce, Washington 25, D. C.*

DEAR Mr. EHRMAN: I have received your communication of April 7, 1952, relative to the proposed commercial standards for flammability of clothing textiles, and I regret very much that I cannot agree with the proposed standards.

I was not aware until I received a letter from Mr. Buck of the National Cotton Council of America, dated March 25, 1952, that revision of the commercial standards was being contemplated. Mr. Buck sent me a copy of the proposals, and enclosed you will find my comments thereon in detail.

These proposed standards go into considerable detail on the classification of materials from a standpoint of flammability, but they will not classify a material as being "highly flammable" or displaying "rapid and intense burning" unless the fabric burns the 5 inches in less than 4 seconds on a 45° angle burning rack, and even then the base material must ignite.

A very serious weakness in the standards is the total lack of any method of determining the low ignition hazard of certain types of wearing apparel materials. I refer to such materials as unsupported plastic film and plastic-coated fabrics such as were sold promiscuously in California prior to the adoption of our standards and which resulted in the deaths of several children. I have knowledge of several different materials of this type which would be extremely hazardous, yet these commercial standards would not classify them as exhibiting "rapid and intense burning."

After a careful study of the proposed commercial standards, I am of the opinion that they will not provide any reasonable degree of safety to the public but will merely legalize the sale of wearing apparel that is highly flammable and dangerous and will result in the sacrifice of many lives, particularly among children. I cannot believe that the United States Department of Commerce is desirous of establishing a standard that will constitute little more than legalized murder.

During the past 6 years, we have experienced in California 42 injuries and 41 deaths resulting from clothing being ignited, and all but 1 of these occurred in fabrics that had a minimum burning classification above 6 seconds. To reduce this test evaluation to 4 seconds would lower the California standards by 33⅓ percent and would result in an increase in injuries and deaths from the hazard of highly flammable wearing apparel.

May I respectfully request, in the interest of public safety and the protection of the lives of our citizens, and particularly the children who cannot possibly know of the dangers inherent in highly flammable articles of wearing apparel, that you not established these proposed standards as the commercial standards

for the manufacture of wearing apparel. I appeal to you to study this matter further, and I feel certain that you will conclude that the standards—if they are to be of any value whatsoever—must be set higher than those proposed.

Yours very truly,

JOE R. YOCKERS,
State Fire Marshal.

STATE OF CALIFORNIA,
STATE FIRE MARSHAL,
Los Angeles, April 7, 1953.

Hon. LEROY JOHNSON,

House Office Building, Washington, D. C.

MY DEAR MR. JOHNSON: I have your letter of April 2, 1953, inquiring about the California flammable wearing apparel standards and the effect they have had in providing greater safety from the hazards of flammable wearing apparel.

California was the first State to enact legislation providing for standards of safety in the manufacture and sale of articles of wearing apparel. (See enclosed copy of the laws and copy of the rules and regulations established under the laws.) To the best of my knowledge, no other State has yet enacted any comparable legislation. A great many States have written to us and obtained copies of our laws and regulations, and I understand that several of them have introduced legislation but it has been consistently opposed and defeated.

Following the enactment of the Flammable Wearing Apparel Act of California, we immediately began a study of the problem and conducted considerable experimentation and research in an effort to develop testing apparatus that would evaluate the fire hazard in fabrics, as well as plastic film and plastic-coated fabrics. We took full advantage of the work that was being done by the American Association of Textile Chemists and Colorists, and following a research program that lasted almost 2 years, we developed the enclosed set of flammable wearing apparel standards. Public hearings were conducted in various parts of the State, and merchants and manufacturers were invited to comment on the proposed standards, which were finally adopted with the approval of the merchant and manufacturer groups.

Following the adoption of these standards, we found that the test procedure was deficient in some respects, in that it failed a number of the smooth, sheer materials which did not actually display burning characteristics that would indicate that they possessed a greater than normal fire hazard, and because of this weakness in the test procedure we later repealed the standards as they applied to the smooth-surfaced woven fabrics pending further research and study on this phase of testing. We have continued to apply the standards to fabrics having brushed or napped surfaces, and to plastic-film and plastic-coated materials, and have had good success, as well as excellent cooperation from our merchants and manufacturers. We are still conducting research in an effort to find a satisfactory test procedure for the sheer fabrics, netting, and veiling, and we believe that a new variable angle testing rack developed by us will point the way toward a solution to this problem.

We feel that the flammable wearing apparel standards in California have been very successful and that they have reduced the loss of life from wearing apparel fires very materially; in fact, we had a great many deaths and serious injuries that resulted from highly flammable children's plastic-coated film raincoats, and robes and other garments made from materials having a high-piled or napped surface. Since the enactment of these standards, we have experienced only 4 deaths from this type of material, and in 1 of these cases the material was purchased outside of the State of California, in another case it had been purchased prior to the enactment of the regulations. Information was not available on the other two cases. Our experience has been good with the above-mentioned materials, but we are still having a number of deaths from the smooth-surfaced materials.

From January 1946 to December 31, 1951, inclusive, we have recorded 40 deaths and 42 injuries resulting from the ignition of clothing. Each of these fires was investigated, and except for the four mentioned above, the fabrics did not violate the California wearing apparel standards. I believe this should prove that the California standards are not too rigid, and while we will never be able to entirely eliminate fires in clothing unless clothing is made from an incombustible material, I feel that our standards are in need of provisions to deal with the sheer, smooth-surfaced fabrics, and we hope to accomplish this in the near future.

The following table outlines our experience by years from 1946 to 1951, inclusive:

Year	Injured	Deaths	Adult male	Adult female	Male child under 16 years of age	Female child under 16 years of age
1946.....	6	6	1	2	3	8
1947.....	3	8	0	6	0	5
1948.....	5	10	0	7	1	9
1949.....	9	5	0	7	0	7
1950.....	10	5	0	9	0	6
1951.....	9	6	1	6	0	7
Total.....	42	40	2	37	4	39

The foregoing statistics are interesting, since you will note that of the 82 persons involved, only 6 were male, 76 being female. The 76 females were almost evenly divided between adults and children, there being 37 female adults and 39 female children affected. The reason for more female cases than male is because of the more highly flammable nature of the clothing worn by the female sex than that of the male, and it is in this field that more stringent regulation is necessary. Note, also, that during the years 1946, 1947, and 1948, deaths exceeded injuries by almost 2 to 1, whereas during the years 1949, 1950, and 1951, deaths were only about half as great as the injuries. This would seem to indicate that California regulations are reducing the seriousness of the fires, even though they are not preventing them.

A brief summary of our operating procedure is as follows:

1. We first establish a testing and evaluating procedure or minimum standards of safety in articles of wearing apparel;

2. We have solicited and obtained the cooperation of California merchants in specifying in their purchase orders that material furnished thereunder shall meet California minimum fire safety standards;

3. We give free-testing service to merchants and manufacturers desiring to submit their products for test and evaluation, and if the material meets our standards, we give them a letter certifying to this fact. Manufacturers then may certify to our merchants that the material supplied them meets California standards;

4. We make periodical random checks on goods being offered for sale in stores and shops; and,

5. We endeavor to apprehend and prosecute violators.

It has not been necessary for us to prosecute any of the legitimate merchants or manufacturers in California, but we recently prosecuted, with success, peddlers who were selling the so-called hot sweaters in California. We filed charges against several of the peddlers and a peddler wholesale concern that was supplying them, and obtained convictions in all cases except one where some evidence was lacking.

I have studied Congressman Canfield's bills H. R. 389 and H. R. 3851. H. R. 389 vested authority in the Secretary of Commerce to establish standards in the same manner as we establish the standards in California, and provided for coordination of enforcement between Federal, State, and local authorities in the administration of the act. We believe that H. R. 389 was a satisfactory solution, but we now find that Mr. Canfield has introduced H. R. 3851 which delegates to industry the authority for establishing the standards, without giving the public officials who are charged with the responsibility of providing safety for our public any voice in the matter whatsoever.

H. R. 3851 turns over to industry the full authority to set the flammable wearing apparel standards, and once they are established, industry will be well protected against lawful suits by victims of wearing apparel fires, but I do not believe the standards will provide for the safety of the general public. The commercial standards now referred to in H. R. 3851 are considerably below the California standards, and they do not provide any standards whatsoever to govern the sale of highly flammable plastic film or highly flammable plastic-coated fabrics. These standards do not even set up a procedure for testing plastics and plastic-coated materials, and the standards for knitted and woven fabrics appear to have been developed for the purpose of passing all existing types of fabrics except those having a high-piled surface.

I am enclosing a copy of my letter to Mr. Herbert A. Ehrman of the Commodity Standards Division, United States Department of Commerce, which clearly indicates my thinking on their present flammable wearing apparel standards. I am also enclosing a copy of my letter to Hon. Gordon Canfield on H. R. 389, dated March 6, 1953, and my letter to him regarding H. R. 3851 dated March 20, 1953, and I believe that our feelings are quite clearly expressed in these letters, and in my more recent letter of April 7, 1953, a copy of which is also enclosed.

We realize that there is a great need for a national standard for fire safety in wearing apparel. Hundreds of lives are needlessly sacrificed because of dangerously flammable articles of wearing apparel that are being sold on the market today, but to correct this situation, we need good standards and not just standards to protect industry against lawful suit. I believe that the United States Bureau of Standards has all of the facilities and know-how to develop reasonable and good flammable wearing apparel standards if given authority to do so, but I believe that public officials who are charged with a responsibility such as I am myself, are entitled to a voice in setting the standards of safety. Certainly we who devote our entire lives to providing safety for the public are in a better position to know where the standards should be set than anyone else, and I do not believe that it can be said that we established standards in California without giving both merchants and manufacturers a full opportunity to study them and make suggestions.

I want to compliment you on your long fight for a standard of safety in wearing apparel which would provide the public with a reasonable degree of safety. I hope that you do not become discouraged in your worthy effort, and if I may be of further assistance to you, please feel free to call upon me.

Yours very truly,

JOE R. YOCKERS, *State Fire Marshal*

The CHAIRMAN. I have a list which has been compiled since we started the hearings today showing the great number who have indicated a desire to appear before the committee. I can see many duplications in the sense of speaking for similar organizations. I am hopeful that it will be possible by conference among yourselves in the industry, that you can agree on 65 percent as a speaking arrangement to be laid out here, because if we go the full length and hear 100 percent, I can tell you that it will take a very considerable length of time and it would be very much preferred by the committee if those who are leading in the support of the legislation, either one bill or another, would have some kind of an understanding between themselves to present their statements. That would save time to the committee and save time for everyone, if they can give all of the information that will be helpful to the committee in deciding the question. It will be very helpful and very much appreciated.

Tomorrow's hearings have already been arranged for. Next week is filled with hearings.

So that the earliest possible time that I can see when we can again take this matter up, without doing violence to the program that we have already laid out of which the people interested and parties interested have been notified, would be the week after next. Is that right, Mr. Clerk?

The CLERK. Yes

The CHAIRMAN. I will say for the information of all that it will probably be sometime during the week of April 27. You will have plenty of notice. We will probably make the determination this afternoon, or by tomorrow morning at the latest.

Mr. HESELTON. Mr. Chairman, may I express the hope that some witness will address himself to the point of the constitutionality which has been raised.

The CHAIRMAN. I think it would be well, following the suggestion of Mr. Heselton, to have someone speak on the question of constitutionality of that provision of the bill which relates to 65 percent of the industry and to which objection has been made by the Federal Trade Commission, and I would be pleased, if there are any representatives here of the Commerce Department and the Bureau of Standards, if they would give me an opportunity of speaking to them in my office in the rear of the committee room, before they leave. And, if there are any representatives of the Federal Trade Commission, or any other Federal agencies here, I would like to meet them immediately following this meeting in my office to the rear of the committee room.

Is there anything further, gentlemen?

I regret that the business of the day prevents our going on with this this afternoon. The House is in session.

(Thereupon, at 12:15 p. m., the committee adjourned to meet at the call of the Chair.)

FLAMMABLE FABRICS ACT

TUESDAY, APRIL 28, 1953

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to call, in room 1334, New House Office Building, Hon. Charles A. Wolverton (chairman) presiding.

The CHAIRMAN. The committee will come to order. We have met to continue our hearings on the so-called flammable materials bills, H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500.

Is there any plan among the witnesses present as to the order in which they wish to present their testimony?

(After calling a roll of the list of witnesses, and further informal discussion, the following proceedings were had:)

The CHAIRMAN. Mr. Buck, we will hear you. How long will your statement take?

STATEMENT OF GEORGE S. BUCK, JR., TECHNICAL DIRECTOR OF THE NATIONAL COTTON COUNCIL OF AMERICA

Mr. BUCK. About 20 or 25 minutes.

The CHAIRMAN. You may proceed. I hope that you can shorten it a bit, in view of the fact that there are so many other witnesses and there must be a limitation of time owing to the fact that we have these bills set down for hearing today and tomorrow, and with the House in session, and our inability to get consent for the committee to sit while the House is in session, it necessitates that we keep our statements within a time that will enable us to finish.

You may proceed, Mr. Buck.

Mr. BUCK. My name is George S. Buck, Jr. I am technical director of the National Cotton Council. The National Cotton Council is the organization which represents the six basic groups of the cotton industry: the cotton producers, ginner, seed crushers, warehousemen, merchants, and spinners.

The National Cotton Council joins other textile interests, as well as merchandising and consumer groups, in urging favorable action by the Congress on flammable fabrics legislation.

This committee has before it H. R. 389 introduced by Representative Canfield, and H. R. 2768, introduced by Mr. Wolverton, these two being identical. Also before this committee are H. R. 3851, H. R. 4159, and H. R. 4500, introduced by Representatives Canfield, Johnson, and Williams, respectively. For convenience, I would like to refer to these latter 3 as the revised bill, and to the former 2 as the original bill.

Mr. CARLYLE. Mr. Chairman.

The CHAIRMAN. Mr. Carlyle.

Mr. CARLYLE. Mr. Chairman, I do not believe that I have the copy the witness is reading from. I am unable to follow him.

The CHAIRMAN. The statement which we have before us under your name, George S. Buck, Jr., technical director of the National Cotton Council of America, seems to be different from the one you are reading from. Have you revised it?

Mr. BUCK. Yes, sir; and sent up a new set yesterday. It was revised so that we could devote attention only to those points which the committee was particularly interested in.

The CHAIRMAN. You wish the original statement to be made a part of your testimony?

Mr. BUCK. I would like for it to be so made, if the committee please.

The CHAIRMAN. Suppose that we reserve that until we see, or hear your revised statement, and see to what extent they differ.

(After informal discussion, the following proceedings were had:)

The CHAIRMAN. You may proceed.

Mr. BUCK. In the first day of hearings before this committee on April 16, two points of difference between the original and revised bill were stressed, together with some questions which one of the executive agencies raised on the scope of the bills. Evidently these differences are the major subjects on which this committee must make a decision. The need for flammable fabrics legislation is conceded by everyone. The desirability of having such legislation on the Federal level is obvious. Therefore, with the permission of the chairman and members of the committee, I will confine my statement simply to a discussion of the points at issue.

May I first set the records straight on one small but important point. H. R. 389 and H. R. 2768 are not identical with S 2918 which was passed by the Senate in the last Congress. In an amendment offered by Senator Johnson on the floor of the Senate and accepted by the Senate, the Secretary of Commerce was authorized and directed to establish "under the presently existing procedures for the establishment of commercial standard" testing methods, procedures and standards, etc. This amendment found on page 9216 of the Congressional Record of last July 3. However, through a typographical error, this amendment was listed for insertion on page 17 of the bill, after the word "establish", instead of on page 12 of the bill. Thus, you will see that the bill which the Senate passed did follow the lines of the revised bills now before this committee on one of the essential points; namely, that of providing for revision of the standard through the mechanism under which commercial standards are developed.

Essentially the original bills differ from the revised bills in Sections 4 and 8, with additional differences in sections 11 and 12. The bills are all identical in scope, and they are identical in their control of flammable fabrics. The revised bill is no less restrictive and no less effective than the original bill. The revised bill is not an attempt by industry to soften the legislation, and it is not an attempt by industry to avoid in any way controls which should properly be exercised over potentially dangerous materials. It is simply a recognition that the most effective bill will be a workable bill. We believe that a better understanding of the basic problems involved in controlling danger-

ously flammable fabrics will make clear to the members of this committee the desirability of drafting legislation along the lines of the revised bill rather than those of the original H. R. 389 and H. R. 2768.

The fact which makes this whole matter of controlling dangerously flammable fabrics so difficult is that there is no line of demarkation between fabrics which are dangerous and fabrics which are not dangerous.

That fact should be recognized by everyone concerned with this type of legislation. We hope that it will also be carefully explained to the public—you simply cannot say that any given fabric will be safe or dangerous. More than 90 percent of all our textiles are flammable in some degree, and any degree of combustibility could be dangerous under certain circumstances.

Of course, we can pick out items which we feel sure are dangerous. One such material would be the long pile rayon fabric used in the cowboy suits which caused so many children's deaths over 6 or 7 years ago. We know from experience that that fabric is dangerous, and we likewise feel that the fabric used in the so-called torch sweaters is dangerous. But where do we go from there? How do we decide what other fabrics are dangerous? If other fabrics cannot be singled out as having contributed in some unusual way to injury or death by burning, can we say that any such fabrics are truly dangerous?

The approach to this problem has been to develop a testing method which will measure the burning characteristics of a fabric known to be dangerous, and which will distinguish such types from other fabrics which can also burn, but which burn differently, so as not to present an unusual hazard to life.

The testing method incorporated in all five of the bills before this committee, by reference to CS 191-53, is such a method.

When a carefully conditioned and prepared sample is mounted in this semi-automatic machine, three important elements of fabric flammability are measured. These are ease of ignition, rate of burning, and intensity or volume of flame. Experience has shown that each of these factors contributes to the "potential" hazard of a fabric, and that the right, or wrong, combination of these factors would add up to a truly dangerous material.

Arbitrary burning criteria in this test method are established, so that any fabric which has burning characteristics similar to a fabric known to be dangerous is likewise presumed to be dangerous. This presumption is justified only to the extent that the testing method measures the particular elements of burning which add up to potential hazard in a clothing fabric.

We believe that the testing method comes very close to meeting all the requirements of separating dangerous fabrics from those which are normally combustible. We know that it throws out the torch-sweater-type fabrics and the cowboy-suit materials. We know that it is entirely effective on other fabrics of a similar nature. As a matter of fact, the trouble with the test is that it is too restrictive on fabrics which have no history of unusual hazard, and which the public generally has always regarded as safe. The machine is not sufficiently refined to distinguish the difference in the way they burn and the way really hazardous fabrics burn, even when this difference can be

seen clearly by eye. We hope that technical improvements will eventually correct this fault.

One of the executive agencies has criticized the method because it differentiated fabrics upon differences of a second or fraction of a second, showing those on one side of the line to be safe, and those on the other to be hazardous. We agree that this does not seem reasonable; it would be absurd to say that a fabric which burned a strip in 3.5 seconds was dangerous and the one which burned the same strip in 4.5 seconds was not dangerous. But you have to draw the line somewhere, and unfortunately the line is so placed that it will necessarily restrict or prohibit fabrics which are not normally hazardous.

Let us look at what would happen if the burning-time limits were to be arbitrarily changed by someone unfamiliar with textiles and the manner in which they burn. At present sheer and net fabrics which burn the 5-inch strip in less than four seconds are termed dangerous. Materials outlawed under this include all nets treated with nitrocellulose, and many other thin and diaphanous materials which women like to use so much in certain garments. Suppose, now, you raise this limit to five seconds, "just to be sure." With this change of only one second you now take away from the women of America most of their light summer dresses. Lawns, voiles, organdies, and lightweight rayons often burn in this 4-5-second range. Similarly, raising the limit another second to 6 seconds could add another 300 or 400 million yards of lightweight fabrics to those banned, and setting the limit at 8 seconds would rule out still larger quantities.

This is a serious matter. We would like every member of this committee to understand how vital a matter of a second or two on a testing machine may be to one of the major industries of this country. I don't know which would be more foolhardy—to deprive the women of this country of their summertime dresses, or to cripple our textile industry on the basis of some unreasonable, unrealistic, and uninformed decision.

I have devoted this time to a discussion of the test method and the various time limits simply to let the committee know why the industry prefers section 4 of the revised bill to section 4 of the original bill. The latter bill simply insures that same arbitrary and unreasonable change in time limits, which could have such a destructive influence on the whole industry, would not be developed in ignorance by some executive agency of the Government and forced upon industry. May I call your attention to the fact that such action has already been implied in a letter from one of these agencies which the chairman, Mr. Wolverton, read at the opening day of these hearings. Please note that section 4 of the revised bill provides for exactly the same coverage and the same restrictions of section 4 of the original bill. It does not give industry any right to modify, lower, raise, or otherwise change the flammability restrictions. It does not give the industry authority to refute any standards—they are already incorporated into the bill in section 4a. All that section 4b does is to assure industry a voice in changing and improving the standard test method, as such improvements become available, and as the need for them arises. The Secretary of Commerce still has the last word, and if no changes are made, the present broad standards under CS 191-53 still stand.

A second difference between the original and revised bills is in section 8—the guaranty clause. This is specifically designed to relieve from the penalties of the act retailers or other persons who purchase textile fabrics in the belief that they are not dangerously flammable. This is a reasonable provision. The tens of thousands of retailers in this country should not be required to become testing experts and to evaluate each yard of goods and each textile garment purchased. The guaranty provision in the revised bill, as in the original bill, provides the means whereby retailers who receive a guaranty in good faith are exempted from the provision of the act.

The guaranty, however, is voluntary. If a manufacturer does not wish to furnish the guaranty, the retailer has no protection, unless he tests the goods himself. And the manufacturers are agreed that they would be unable to furnish the guaranty required by section 8 (a) of the original bill. In effect, this would guarantee every yard of goods and every garment manufactured. Obviously each such item could not be tested, yet the manufacturer is asked to guarantee something which he has not done. Section 8 of the revised bill provides that a manufacturer may furnish a guaranty to the effect that reasonable and representative tests have been made, under the provisions of the act, and that the specific type of fabric covered by the guaranty was found to be safe. This guaranty protects the retailer who receives goods with the understanding that they are safe, and at the same time in no way relieves the manufacturer from the penalties of section 3 of the act, if he sells or ships highly flammable materials.

Section 8 (b) of the original bill is eliminated in the revised bill. To be found guilty of furnishing a false guaranty, a fabric supplier must be first found guilty of selling or offering for sale a dangerously flammable fabric. This would be a violation of section 3 of the act, and would make such a person subject to the penalties of section 7 of the act. Section 8 (b) of the original bill has the effect of making a man guilty twice for the same offense. This is another deterrent to providing the retailer with any guaranty.

Section 11 of the revised bills exempts from the provision of the act any person who exports directly from the United States to some foreign country an article of wearing apparel or fabric made in accordance with the specifications of the purchaser. This simply recognizes the fact that an American flammable fabrics act is not binding on foreign countries for fabrics used in those countries.

Section 12 of H. R. 3851, H. R. 4159, and H. R. 4500 allows the industry 12 months to acquire testing equipment, gain experience in evaluating fabric flammability, and permits manufacturers and retailers to clear their stocks and shelves of goods which have not been tested. It is well known that the path of a fabric from manufacturer to finisher or converter to wholesaler to jobber to cutter to retailer often takes at least a year. While it is not likely that a fraction of 1 percent of these goods would be dangerously flammable, no person along the chain would have any way of knowing whether a particular fabric had met the provision of the Act. A 12-month period does not seem an unreasonable time to allow such a large industry to prepare for all the implications of this legislation.

Finally, may I say a few words about the scope of these bills, since that question has also been raised by the executive agencies.

The bills before this committee apply only to clothing and to fabric intended for clothing use. Their coverage could not be extended to other classes of fabric uses, because the testing method and standard CS 191-53 was specifically designed to measure potential hazard in clothing fabrics. The method of preparing and mounting a sample in the tester, the method of applying a flame, and the technique of measuring a flame speed and flame intensity are all derived from what are known to be important factors in clothing flammability. Neither the method, nor the time limits, nor the interpretation of hazard or safety would apply to any other textile use.

As a matter of fact, there would be grave danger in extending the scope of CS 191-53 to cover any materials other than clothing and fabric intended for that use. Not only would the flammability criteria be meaningless when applied to other uses, but there would be an undermining of more effective controls now existing in many States and cities and being established in others. Moreover, for many textiles uses, consumers would be led to expect fire-resistance in textiles which are normally flammable, and might use such fabrics where actual fire-resistance is needed. Fires such as that of the Coconut Grove in Boston or the Ringling Circus tent in Hartford would not be prevented by a fabric of normal flammability. In these uses, and for many other textile applications in theaters, hotels, and other public buildings, stringent and effective fire-resistance requirements, either State or municipal, must be met today in at least 28 States and the majority of our larger cities. For safety's sake we must keep clothing fabric standards, which simply insure normal burning characteristics, separate from fire-resistance standards.

Industry desires flammable fabrics legislation as much as any group. In many ways such legislation on the Federal level will benefit industry. It will eliminate the fly-by-night operators who give all textile manufacturers a bad name by putting on the market dangerous materials. It will tend to make unnecessary, or at the least, to make uniform, regulations on the municipal and State level. It will also clarify the status of our vast majority of safe, yet combustible textiles. The textile industry (including manufacturers and retailers and their professional societies), has done more than any other group to make this type of legislation possible, by spending time, money, and patent effort in research to develop a suitable testing method and workable criteria of flammability.

We believe that flammable fabrics legislation is in the public interest, and that it is highly desirable that the Congress adopt legislation on this subject this year. We urge favorable action on the revised bills now before this committee, H. R. 3851, H. R. 4159, and H. R. 4500, as the most workable and effective form of such legislation.

Mr. Chairman, may I also submit for the record the statement of Robert C. Jackson, executive vice president of the American Cotton Manufacturers Institute?

The CHAIRMAN. Did Mr. Jackson testify on this matter when the Senate committee held its hearings about a year ago?

Mr. BUCK. At that time Mr. Jackson submitted a statement which mainly supported the testimony which I have presented.

The CHAIRMAN. Well, if you would leave the statement of Mr. Jackson, I would like to look at it and see to what extent it changes the testimony he gave in connection with the Senate bill, so that

comment can be made with respect to that in these hearings, in view of the fact that Mr. Jackson is not here and subject to examination.

(Mr. Jackson's statement follows:)

STATEMENT OF ROBERT C. JACKSON, EXECUTIVE VICE PRESIDENT, AMERICAN COTTON MANUFACTURERS INSTITUTE, INC.

The American Cotton Manufacturers Institute, which has its headquarters at Charlotte, N. C., and its Washington office at 1625 I Street NW., is the central trade association of the United States cotton manufacturing industry and includes in its membership the operators of approximately 85 percent of the domestic cotton spinning and weaving industry. Perhaps to a greater extent than any other group in the country, our industry has a direct and specific interest in this legislation.

You have heard detailed testimony on the proposed legislation by George Buck, representing the National Cotton Council of America. Because the cotton textile mills are 1 of the 6 raw-cotton groups which comprise the council, we have had a voice in determining their position and we subscribe to and endorse fully the statement presented by Mr. Buck.

For this reason, it is not our purpose to dwell on additional details or to duplicate any major portion of Mr. Buck's testimony. We simply wish to make two points relative to the proposals which you are considering:

1. The American cotton textile industry has a direct as well as a humanitarian interest in the development of reasonable and workable procedures to safeguard the public from dangerously flammable fabrics. Based upon several years of experience in dealing with the problem, we are convinced that the most practicable means of obtaining the desired objective is through the adoption of reasonable and workable Federal legislation.

Already there is ample evidence that in the absence of Federal legislation the separate states and perhaps many municipalities will take action. It is possible, even likely, that under such circumstances our manufacturers and distributors would be faced with an almost impossible situation in attempting to comply with a score or more of different laws and regulations dealing with the same subject. Obviously, such a situation would not be in the best interest of the group which the legislation is intended to serve, the general public.

The products of hundreds of our mills find their way into every State in the Union. You can well imagine the confusion and the inefficiency which would be involved should these State and municipal actions begin to develop on a large scale. And let me repeat, there is already ample evidence that in the absence of Federal legislation many such actions will take place this year and next.

2. The second point we wish to make is to urge upon this committee and the Congress the importance of adopting the legislation as worked out and agreed upon by the many groups which have such an important interest in the subject. At best, legislation of this nature, affecting as it does the entire production and distribution process of one of America's largest industries, is bound to create complications and difficulties for those who must comply.

I think it would be entirely accurate to say that none of us who started working on this subject several years ago even dreamed of the complications which would be encountered in attempting to work out a legislative approach that would be reasonable, workable and, most important, produce the desired results.

Now, after years of work, after thousands of fabric tests, after the development of new and different testing machines, after very considerable expense to many groups, and after days and months of long and tedious conferences and meetings we believe that there finally has evolved a practical legislative approach, as represented in H. R. 3851 by Mr. Canfield and H. R. 4159 by Mr. Johnson.

We strongly recommend the adoption of these measures in their present form.

The CHAIRMAN. Are there any questions, gentlemen?

Mr. Roberts, do you wish to ask any questions before you find it necessary to leave?

Mr. ROBERTS. No, sir, Mr. Chairman.

The CHAIRMAN. Any questions, gentlemen?

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. I did not notice any reference to the point that was raised at the last meeting of the committee as to the constitutionality of certain portions of this bill. Are you prepared to discuss that, or make any comments on that?

Mr. BUCK. Mr. Leonard Robins of the Council for the NRDGA is better qualified, as an attorney, to comment on that, I think.

Mr. HESELTON. That is all, Mr. Chairman.

The CHAIRMAN. Are there any further questions?

Mr. BUCK. I note that your statement leaves no doubt of your preference for the bill subsequently introduced. Is there any other difference between H. R. 389 and H. R. 2768 introduced by Mr. Canfield and myself, than the bill which was passed by the Senate and reported favorably by this committee; other than the one point that you first made?

Mr. BUCK. No; I think that is the only one, Mr. Wolverton.

The CHAIRMAN. Well, before we go into those questions that you have raised, I think it is appropriate for us to understand the position of those who are now appearing in opposition to H. R. 289 and H. R. 2768.

I have before me a report that was made by Senator Johnson, chairman of the Committee on Interstate and Foreign Commerce of the Senate, submitted on April 27, 1952. I will read extracts from that report and make such further reference to it as occasion may require.

In the first place, the report by Senator Johnson states:

The purpose of this bill which has the committee's unanimous approval, is to protect consumers and others from the danger surrounding the use of flammable textile products of types which have caused either bodily injury or death to numerous individuals. * * *

Your committee held public hearings on this legislation and without exception every witness, representing virtually every segment of the textile industries and trades, testified in support of the bill.

Mr. Henry Miller, assistant general counsel of the Federal Trade Commission, presented in behalf of the Commission an excellent statement in support of S. 2918—

which is similar to H. R. 389 and H. R. 2768.

and suggested a number of changes in the language of the bill.

Continuing from the report:

Those suggested amendments were carefully considered by the industry subsequent to the hearings and thereafter the chairman of your committee introduced an amendment in the nature of a substitute for S. 2918 which embodied amendments acceptable to the industry. The substitute bill was then submitted for comment to the various Government agencies, including the Federal Trade Commission and the Department of Commerce. Their favorable reports are hereinafter set forth in full for the information of the Senate. Your committee has incorporated in the bill herewith reported the amendments suggested by the industry as well as the amendments suggested by the Federal Trade Commission and the Department of Commerce.

In addition to the Federal Trade Commission witness, your committee received strong testimony in support of this legislation from representatives of the Department of Agriculture, the National Cotton Council, the National Retail Dry Goods Association, the Society of the Plastics Industry, the Underwear Institute, the American Viscose Corp., and others. There was no testimony whatever in opposition to S. 2918 and the committee has received no communications voicing opposition to the proposal. Thus the need for effective Government action to protect the public is widely recognized. This unanimous support by the industry itself demonstrates not only the desirability of the bill but the very fine spirit of cooperation among the businesses concerned in their manifest desire to work out legislation that will accomplish the ultimate objective of protecting the innocent public against possible bodily injury or death.

Then when Senator Johnson presented this matter to the Senate, July 3, 1952, he said:

Mr. President, this bill—
now, he is referring to the revised bill—

Mr. President, this bill is meant to cure the problem in connection with so-called torch sweaters which burst into flame. Many tragedies have occurred in connection with cowboy outfits that burst into flames. The bill is designed to cure that situation. It has been carefully drawn. As a matter of fact it has been rewritten 3 or 4 times in order to get all interested parties together. We have finally gotten them together. The departments of Government and the components of industry interested are satisfied with the language contained in the bill as it will be amended. There is a committee amendment which will make my statement correct that all parties are agreed upon it.

Now, that is the bill that passed the Senate. It is similar, with that one slight exception, to the bill which was introduced by Mr. Canfield and myself at the commencement of this session.

Now, I would like to know from you and the witnesses who follow you, why is it that you have changed your mind with respect to the legislation after it had been amended as suggested by you and the departments and met with the industry's approval as stated by Senator Johnson both in his report and on the floor of the Senate.

Mr. BUCK. If you will recall, Mr. Chairman, when the Johnson bill was originally introduced, section 4 simply—that is the section which sets the standard—and, of course upon the standard the whole law rests. It prescribes what materials will be restricted and what will be called safe.

Now, when the Johnson bill was finally written that section 4 left that matter entirely open and up to the Secretary of Commerce and the industry had no idea of what it was faced with in the way of controls, and our concern last year was to see that that section 4 applied to or utilized the Commission standards, CS 191-53, which was at that time an arbitrary standard and all of our efforts before Congress last spring were on whether—to see whether or to see that that provision was put in there and it was finally put in the bill.

The CHAIRMAN. And the same provision is in 389, introduced by Mr. Canfield, and in H. R. 2768, introduced by me, is it not?

Mr. BUCK. No, sir. If you will go back to Mr. Johnson's statement before Congress, he said there is a submitted amendment which will make my statement correct, that all parties are agreed upon.

The CHAIRMAN. That is right.

Mr. BUCK. Now, your bill does not contain that amendment which is the phrase, to be added after the ordinary standards in section 4 (b):

Under the presently existing procedures for the establishment of commercial standards.

The CHAIRMAN. What, in your opinion, is the effect of that amendment that you just read?

Mr. BUCK. Well, I can only give you the opinion of a layman in a legal sense, or a technical man on the method itself and the effect of that is that if in the course of time the machine upon which these tests are made, or the technique of using the machine is found inadequate in some way, or if it can be improved—and these things are always improved in the course of time—all technical standards change as scientific advances are made—if that comes about, then, with in-

dustry and the public and the retailers and the Government cooperating these changes can be incorporated into this bill; into the law, without coming back and bothering the Congress about a technical detail in the testing instrument.

That is my opinion of how it will work.

The CHAIRMAN. All right. So that there will be no misunderstanding, you read me the language that was in the bill as passed by the Senate, and the language that is in the bill that was introduced by Mr. Canfield and myself.

Mr. BUCK. In the bill as passed by the Senate and that will be found on page 12 of the bill, S. 2918.

The CHAIRMAN. That is right.

Mr. BUCK. It would read:

The Secretary of Commerce is authorized and directed to establish test methods—

The CHAIRMAN. Now, so that there will be no misunderstanding, let us read all of section 4, starting with section 4 in the beginning, in line 9 of page 12 of S. 2918,

Mr. BUCK. As amended.

The CHAIRMAN. As amended.

Mr. BUCK (reading):

SEC. 4. Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions and in the manner hereinafter provided for.

The CHAIRMAN. Now, that is identical with the language in the bill introduced by Mr. Canfield and myself in the first instance, is it not?

Mr. BUCK. That is correct.

The CHAIRMAN. All right. Now, if the members of the committee have the bill, that was introduced, before them, I would appreciate your following the reading so that you will grasp just what the change is to which the witness has referred. The members of the committee have copies of the bill?

Mr. HESELTON. Mr. Chairman, will you point out where the language is?

The CHAIRMAN. Now, the witness has just finished reading the first paragraph of section 4 entitled "Standard of Flammability" in Senate bill 2918. And that bill, you will observe—

Mr. HARRIS (interposing). You mean, Mr. Chairman, the one that was passed last year?

The CHAIRMAN. That is the bill that was passed by the Senate last year and reported favorably by this committee to the House, but not acted upon because in the closing days it required unanimous consent, which could not be obtained.

Now, if you will observe section 4, first paragraph, which has just been read by the witness from S. 2918, you will observe that that is identical with the first paragraph, section 4, under the same title "Standard of Flammability" on page 5, line 1, of H. R. 2768, or H. R. 389.

Now, starting the reading in line 16, page 9 of the Senate bill—and if you have before you copies of either Mr. Canfield's or my bill, H. R.

2768, you will see that, starting at line 9, and from that point down, I want you to compare it so that you will understand the difference.

Mr. BUCK. Shall I read?

The CHAIRMAN. You may proceed.

Mr. BUCK (reading) :

The Secretary of Commerce is authorized and directed to establish—

Now, there is where I would like to stop.

The CHAIRMAN. Now, let us read it first, if you do not mind, so that we will not get confused.

Mr. BUCK (reading) :

The Secretary of Commerce is authorized and directed to establish test methods, procedures and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register. No such test method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless, in his opinion, such test method, procedure, and standard are adequate for the protection of the public interest.

The CHAIRMAN. Go right ahead.

Mr. BUCK (reading) :

Until the Secretary of Commerce shall promulgate applicable test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics, the test methods, procedures, and standards set forth in the "Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131," dated April 3, 1952, and circulated for acceptance by the United States Department of Commerce on April 7, 1952, shall be effective.

The CHAIRMAN. Now, the committee will note that this bill we now have before us reads identical with that which the witness has read, with the exception of those words "commercial standard."

Mr. BUCK. I just read what you have there.

The CHAIRMAN (reading) :

Commercial Standard for Flammability of Clothing Textiles, TS-5131, dated April 3, 1952, and circulated for acceptance by the United States Department of Commerce on April 7, 1952, shall be effective.

That was in the bill as passed, was it not?

Mr. BUCK. That was in the bill as it passed; yes.

The CHAIRMAN. Now then, the language that is used in the bill Mr. Canfield and I introduced is this:

Standards set forth in the Commercial Standard CS 191-53, "Flammability of Clothing Textiles," promulgated by the Secretary of Commerce December 30, 1952, effective date January 30, 1953.

Is that not the same thing as you have read in the bill, when it referred to the commercial standards, CS 191-53?

Mr. BUCK. That is correct.

The CHAIRMAN. All right. So then there is no difference.

Mr. BUCK. No, sir.

The CHAIRMAN. In the two.

Mr. BUCK. There is a difference.

The CHAIRMAN. In section 4?

Mr. BUCK. Yes; there is a difference.

The CHAIRMAN. What is the difference?

Mr. BUCK. The difference does not apply, Mr. Chairman, to the effect of the bill when the law is passed. It applies to the revisions of the bill which will be made and that is carried in the amendment

which I read, which should be incorporated in the second paragraph of section 4 of Mr. Johnson's bill.

The CHAIRMAN. Then the bill you read to the committee was not the exact bill that passed the Senate?

Mr. BUCK. I pointed that out to the chairman. It is not the exact bill. The bill that passed the Senate included the amendment.

The CHAIRMAN. All right. Now, let us have the amendment and what the amendment includes. I thought that you were reading from a bill as passed by the Senate.

Mr. BUCK. No, I read—may I read there, starting with line 16, page 12, again, with the amendment put in at this time.

This is S. 2918, page 12, line 16.

Mr. PRIEST. Is that the same language as the language in line 9, page 5, H. R. 2768?

The CHAIRMAN. The same as line 9, page 5.

Now, what is the amendment?

Mr. BUCK. With the amendment, that reads as follows:

The Secretary of Commerce is authorized and directed to establish, under the presently existing procedures for the establishment of commercial standards, test methods, procedures and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register.

Mr. PRIEST. You add the language "under the presently existing procedures for the establishment."

Mr. BUCK. Yes, sir.

The CHAIRMAN. Now, what would be the effect of that amendment? A copy of the bill which was given to me as the one passed the Senate does not have that in it. I am not disputing your statement that probably that amendment had been adopted. The only thing I have to say is that the bill before me, S. 2918, does not include that amendment.

Mr. BUCK. Mr. Chairman——

The CHAIRMAN. Assuming that that amendment was adopted—we will determine that later when I get a copy of the bill——

Mr. BUCK. Mr. Chairman, could I point out a typographical error in the Congressional Record?

The CHAIRMAN. Yes. You mean in the bills introduced by Mr. Canfield and myself?

Mr. BUCK. No, with reference to the Senate bill.

The CHAIRMAN. There is a typographical error on page 22.

Mr. BUCK. This is with reference to where this amendment was placed in the Johnson bill.

The CHAIRMAN. All right. Now, where was it placed? It was not placed at the point that you just read?

Mr. BUCK. That is right.

The CHAIRMAN. What is that?

Mr. BUCK. That is right.

The CHAIRMAN. Where was it placed?

Mr. BUCK. The intent was for it to be placed on page 12 after the word "establish", but because of the error it was placed on page 17 after the word "establishes", and it does not make any sense there.

The CHAIRMAN. In other words it would read at the point where you now indicate that it was actually made in the amendment as passed by the Senate:

No person shall be guilty under section 3 if he establishes under the presently existing procedures for the establishment of commercial standards a guaranty received in good faith.

Is that right?

Mr. BUCK. That is what the Congressional Record says; yes.

The CHAIRMAN. You say that does not make sense?

Mr. BUCK. No, sir. You do not establish a guarantee under the procedure of commercial standards.

The CHAIRMAN. Now, let me see if I can find in the Record of the Senate what Senator Johnson had to say when he offered that amendment. Do you have a copy of the Record in the Senate that shows the statement you have just referred to?

Mr. BUCK. Yes, sir; I have a copy of the Congressional Record.

The CHAIRMAN. What page does that amendment appear on?

Mr. BUCK. Page 9216 of the Record of July 3, at the bottom of the right-hand column:

On page 17, after the word "establish", add a comma and the words "under the presently existing procedures for the establishment of commercial standards."

The CHAIRMAN. Well, It was agreed to.

Mr. BUCK. Yes.

The CHAIRMAN. But the purpose of your testimony is now to assume that it should have been where you state that that is.

Mr. BUCK. Yes.

The CHAIRMAN. Did that appear in Mr. Canfield's bill, as he originally introduced it, H. R. 389?

Mr. BUCK. I believe not.

The CHAIRMAN. So that the bill he introduced and the bill that I introduced definitely sought to present a bill to the House which was the same as the bill which had passed the Senate?

Mr. BUCK. I think that that was the intention, sir; but I think that was overlooked, that is, this amendment.

The CHAIRMAN. Now, all right. Now, will you tell the committee the particular significance of those words. To what extent do those words change the authority of the Secretary of Commerce and to what extent do they increase the value of the bill from the standpoint of its objectiveness, or whether it decreases the value.

Mr. BUCK. My feeling is this, sir. First, it in no way changes the effectiveness of the bill as written. The bill is based on Commercial Standard 191-53, which is issued and is a document incorporated into the bill by reference.

The CHAIRMAN. Very well. Then, the bill as presented by Mr. Canfield and myself, even without those words in Section 4, that were incorrectly placed, as you state, elsewhere in the bill; notwithstanding that, the standards that are fixed in that bill are in accord with the procedures that you mentioned in these words that should have been added as an amendment in Section 4.

Mr. BUCK. No, sir, I cannot say yes to that, because the difference is this, that in your bill the standards are not fixed and with the amendment in it the standards are fixed, with a mechanism for revision, and in your bill the standards are fixed only so long as the Secretary of Commerce decides that he will use those, and he can change them tomorrow if he likes.

The CHAIRMAN. Well, the bill provides a standard that was arrived at under the very type of language that you have suggested as an amendment. Is that right?

Mr. BUCK. A standard to start with; yes, sir.

The CHAIRMAN. Yes. So that at the present time the Secretary of Commerce has adopted in effect what was intended in that amendment; is that right?

Mr. BUCK. The Secretary of Commerce has promulgated the standards; that is true.

The CHAIRMAN. Now, what you are fearful of, as I understand it, is that under the same procedure by which he adopted that standard of flammability he could change it; is that right?

Mr. BUCK. No, sir; not under the same procedure.

The CHAIRMAN. Well, he could change it.

Mr. BUCK. He could change it under any arbitrary procedure.

The CHAIRMAN. All right now. Where is the language in that respect? Is it by direction or indirection?

Mr. BUCK. I think it is direct. The Secretary of Commerce—and this is reading from H. R. 2768:

The Secretary of Commerce is authorized and directed to establish test methods, procedures and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register.

Now, that binds him to no procedure that I know of. He is simply authorized, it authorizes him to develop any standards.

The CHAIRMAN. That is right. And that is what you object to, the giving of that authority to the Secretary of Commerce?

Mr. BUCK. We naturally regard that with some misgiving, because if standards are developed not on the basis of thorough knowledge of how they will apply, and without the knowledge of how one second, or one-half second, can affect an entire industry, we think it might be a dangerous thing.

The CHAIRMAN. That is what you have said in your statement.

Mr. BUCK. Yes, sir.

The CHAIRMAN. So it boils down to this, that you do not think that the Secretary of Commerce could be trusted, if he wished to change what Congress passes in this bill, to do what will be right from the standpoint of what the industry considers the standards should be. In other words, you are fearful of his judgment; is that right?

Mr. BUCK. If I may change the wording a little bit——

The CHAIRMAN. All right.

Mr. BUCK. Mr. Chairman, I do not say that it is so much a matter of being fearful of his judgment, although that may be involved.

The CHAIRMAN. Now, let us be frank about it. That is involved, is it not? That is really your objection, is it not? In other words, the amendment in the new bill, so-called, provides that before there could be a change in the provisions of this bill, the Secretary of Commerce will first have to ascertain what 65 percent of the industry wanted. Is that not true?

Mr. BUCK. The Secretary of Commerce would have to have the agreement of a substantial proportion of the industry—65 percent.

The CHAIRMAN. Sixty-five percent.

Mr. BUCK. Yes, sir. In other words, the Secretary need not make any change unless he feels it is in the public interest.

The CHAIRMAN. That is right. In other words, you handicap him to the point that he cannot make any change until it has the approval of 65 percent of the industry; is that not right?

Mr. BUCK. Limited by the fact, sir, that you start with a standard which we all believe to be sound, workable and fair.

The CHAIRMAN. Now, that stands until Congress changes it, does it not?

Mr. BUCK. That stands——

The CHAIRMAN. Yes.

Mr. BUCK. No, sir. It does not stand. It stands as the basis of either bill——

The CHAIRMAN. Let us get at this. Then, in your opinion, the Secretary of Commerce can change it without congressional action?

Mr. BUCK. He can change it without the permission of Congress under H. R. 2768 and without the consent of industry or the consumers; he can change a part——

The CHAIRMAN. (Interposing) In other words, discretion is lodged in him entirely.

Mr. BUCK. Until that language is put into this bill.

The CHAIRMAN. Now, as a substitute of that what you wish is that he cannot change it except that he has the approval of 65 percent of the industry?

Mr. BUCK. And by industry is meant groups representing retailers, manufacturers, consumers, professional societies, and so on and so forth.

Mr. ROGERS. Will the chairman yield for one question?

The CHAIRMAN. Just a moment. Now, for the purpose—I am asking this question to ascertain just how far your thought goes.

Suppose there was that provision left out of this bill that gives the Secretary of Commerce the authority to establish different test methods; would the bill be objectionable? Then it would remain with this provision in here now, that commercial standard CS 191-53—now, would that be satisfactory or not?

Mr. BUCK. I think it would be satisfactory for a limited time only, based on the experience with any testing method.

The CHAIRMAN. Well, the limited time would be such time as it will be brought to the attention of Congress.

Mr. BUCK. That is correct.

The CHAIRMAN. That there should be a change and then it would be up to Congress to make the change, instead of the Secretary of Commerce?

Mr. BUCK. That is correct.

The CHAIRMAN. Now, would there be an objection to that or do you still feel that the industry itself should have a say as to what it should be other than through the will of Congress?

Mr. BUCK. I think that this is a matter, like the original bill, for decision by Congress except on minor technical details, and I would wonder whether this committee would want to be concerned with legislation year after year which involved the changing of a wire in a testing machine, or a different spool of thread used in there, or something like that.

The CHAIRMAN. I am not asking you to determine whether Congress wants to be bothered with that or not. I am asking if that provision

in the law as suggested were left out would it be with your approval as answering the objection that you have presented?

Mr. BUCK. I think it would. I do not think it is as desirable as the other, but I think it would.

The CHAIRMAN. Well, now we are getting somewhere. And you feel that when you say that that you are speaking for the industry, expressing the industry's viewpoint, or do we have to consider it entirely as your own individual viewpoint and get 65 percent of the industry before it will become effective for this committee's consideration?

Mr. BUCK. Well, I do not know about the 65 percent, sir. I would a little rather that you would consider it my opinion and not the opinion of the whole industry on that point.

The CHAIRMAN. Well, then, I guess I will have to ask that question of each witness who comes on.

Mr. Rogers.

Mr. ROGERS. I think that he has about answered my question, Mr. Chairman. I would like to have him clarify this one item in my mind, and that is this, that, after 65 percent of the industry agrees upon the change of standard, it is still not mandatory or obligatory for the Secretary of Commerce to change it, is it?

Mr. BUCK. No, sir.

Mr. ROGERS. That is all.

The CHAIRMAN. Now the State of New York passed a bill, did it not?

Mr. BUCK. Yes, sir.

The CHAIRMAN. As a matter of fact that bill was even stronger in its terms than the bills that have been introduced here in Congress, was it not? And that bill left it up to the appropriate State officer to do the same thing that the Secretary of Commerce is directed to do here.

Mr. BUCK. That is correct.

The CHAIRMAN. Did it not?

Mr. BUCK. That is correct. That bill was vetoed by Governor Dewey.

The CHAIRMAN. Why was it vetoed?

Mr. BUCK. Governor Dewey—I only know what I read in the paper—and the opinion was expressed that he thought Federal legislation should come before State legislation, to which we agreed.

The CHAIRMAN. He did not say anything against the provisions of the bill, did he?

Mr. BUCK. I did not see anything he said against it.

The CHAIRMAN. Did you folks, your industry, oppose that bill before the New York Legislature?

Mr. BUCK. We opposed the provisions of the bill.

The CHAIRMAN. Did you oppose that particular provision that has relationship to what we are discussing here now?

Mr. BUCK. Yes, sir.

The CHAIRMAN. So, notwithstanding the opposition of the industry, the legislature, both the house and the senate, adopted the bill; is that right?

Mr. BUCK. That is correct.

The CHAIRMAN. Then, after it got on the Governor's desk, the industry opposed it—opposed the Governor signing it on the basis that

we have got to get Federal legislation and prevailed on the Governor not to sign for that reason; is that right?

Mr. BUCK. The sequence of events, sir, is not quite like that. We were not asked or invited to hearings as we were here before this bill, and we did not know about it until it was passed by both houses, and then we objected to it.

The CHAIRMAN. Do you mean that a bill of this character in the Legislature of the State of New York was passed by both houses without the industry knowing what was going on? From the pressure that has been brought on this bill from the time it was first introduced until the present and of the statements of viewpoints, that that is awfully hard for me to believe.

Mr. BUCK. We know that a bill had been introduced, as a bill had the previous year. The bill the previous year had not gotten anywhere, and we felt that the legislature would again wait for the National Congress to act.

The CHAIRMAN. So you relieved the legislature of the State of New York of pressure and then put it on us here?

Mr. BUCK. Well, we hope that you will act, sir.

The CHAIRMAN. I wonder how you woke up to the fact that the bill was introduced here.

I read the first provisions of the New York bill. The language in that bill gives to the commissioner the very authority that this bill, originally introduced by Mr. Canfield and myself, seeks to give the Secretary of Commerce. In fact, in several of its particulars, if it were necessary to do so, I could point out that the bill was even much stronger than the one that is being presented here. Maybe we have not gone as strong as we should. Maybe I had better revise my bill and make it stronger and more in accord with the bill that the Legislature of New York passed.

Mr. BUCK. Mr. Chairman, I think that the industry's position is reasonable on this matter, and I am sure that the chairman and the members of the committee might reach some device whereby the industry's viewpoint could be heard. You will appreciate that the establishing of methods itself does not make a fabric dangerous. The fabric is dangerous because it has had a history of danger or because it has some potential factors which would make it dangerous to the wearer.

The CHAIRMAN. I appreciate the fact that you cannot adopt standards that in any and all circumstances would protect either against carelessness of children or immaturity of mind or other things, but what we are trying to do is to provide some protection to parents and to children, particularly as against the catastrophes that have happened all the way across this Nation from east to west and north to south, much of which was recited in testimony before the Senate committee.

Mr. BUCK. That is correct.

The CHAIRMAN. It was astonishing. It was worse than I ever thought it to be. So, we do want to be reasonable.

Mr. BUCK. Mr. Chairman, it is the sincere desire of industry to meet the same objectives.

The CHAIRMAN. You see, the trouble comes through the fact that it seems, no matter how far we go, we can never get industry to stay

put. Evidently, Senator Johnson thought that you were, when he issued the report that I have read from and when he made the statement that he did on the floor of the Senate, yet we find that situation.

I thought when I introduced this bill, especially after Mr. Canfield had introduced his, that we were starting where we had left off, inasmuch as the Senate had already passed a bill, and it had been approved by this committee, and I did not anticipate that there would be any such discussion as we are having over it. I thought that we were starting where we ended last July.

Mr. BUCK. Mr. Chairman, I think that essentially we are very close together. We are agreed first on the method. We are agreed on the test method. We are agreed on most of the basic principles of this standard, and that is certainly, I think, making progress.

We just ask that the committee give consideration to a couple of our viewpoints in the matter, and I submit that one of those is the same as was adopted by the Senate.

Now, when all of our products—I say “all”—90 percent of them will burn to some extent, you will appreciate how we regard a tentative—not a tentative, but an arbitrary standard whose limit can be set anywhere and which of itself does not make a fabric flammable but which of itself could make a fabric to be termed dangerous, whether it is or not—if I have a given fabric and I set the limit at 4 seconds and this fabric burns at 6, you will all say it is safe; but suppose that someone comes around tomorrow and sets the limit at 7 seconds, will you all say that this same fabric is then dangerous? That is what we face. We just want to be assured of reasonable consideration in revisions of standards.

We back the standard as it is now.

We just want some safeguards.

The CHAIRMAN. But you also object to any guaranty being given by the manufacturer that it complies with the standard, do you not?

Mr. BUCK. I do not think so, sir.

The CHAIRMAN. You have not?

Mr. BUCK. We agree thoroughly with the principles of guaranty; the objectives.

The CHAIRMAN. I got from the testimony the other day of Mr. Canfield that you objected to the guaranty and the 1 year provision in the bill, in his bill and mine.

Now, so far as the latter is concerned, there will be no difficulty coming from that kind of an agreement. You point out here that it should be a year instead of 6 months. There is not going to be any difficulty over that sort of provision. That is easy to eliminate.

What we are anxious to do, however, is to make certain that there is protection given to the people who wear these garments and I think the retailers would be equally interested in having that type of legislation so that when I go into a store, or any other customer goes into a store and says, “What about the flammability of this material?”, if he can point to a label on it that it meets the United States standards, I think that that would be very helpful to the retailer as well as industry in general, and also some protection to the purchasing public.

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. I would be interested to know, and I am sure that the committee would be interested to know, as to when this idea of 65 percent first arose. What does this 65 percent represent? What does it mean in terms of the industry?

Mr. BUCK. When industry takes action, a committee takes action——

Mr. HESELTON. No; when did it first arise?

Mr. BUCK. Mr. Heselton, commercial standards have been in use for many years. I do not know just how long. There are standards used for the industry. They are developed through the Department of Commerce—and originally through the Bureau of Standards—and their promulgation by the Secretary of Commerce depends on their being suitable to industry, and that suitability was signified by the acceptance of 65 percent of the industry group.

Mr. HESELTON. I do not think that answers my question. Your objection to section 4 of H. R. 2768 is to what you call the arbitrary power of zealous officials, who might subject the manufacturer and retailers to arbitrary and capricious decisions on this complicated subject.

Certainly when the committee took action on this last year, sometime somebody conceivably had had the idea of having 65 percent of the industry have a veto power on any further revision of the standards. What I am interested in is when did that idea arise?

Mr. BUCK. The commercial standard to which section 4 refers was one of those standards developed through industry and promulgated after 65 percent approval of the industry. That is the method by which it was developed.

Mr. HESELTON. I understand that when this question of veto power came up, as the chairman has pointed out to us——

Mr. PRIEST. Will the gentleman yield?

Mr. HESELTON. Yes; I will yield to the gentleman.

Mr. PRIEST. May I ask this question? We have discussed here the amendment that was already in the Senate and which you say would be satisfactory language in section 4 of this bill.

Mr. BUCK. Yes, sir.

Mr. PRIEST. Was that amendment, even though your present testimony indicates it was misplaced, was that language in the bill that this committee reported out and which passed the Senate last year?

Mr. BUCK. I do not have a copy of 389; but I believe it did appear on page 17.

The CHAIRMAN. Page 17 of that bill, or language comparable to that.

Mr. PRIEST. I think this might clarify the question Mr. Heselton is asking. The idea of 65 percent is simply based on the percentage used in the industry and the Department of Commerce by which the present standard was arrived at.

Mr. BUCK. Yes, sir.

The CHAIRMAN. And agreed to?

Mr. BUCK. Yes, sir.

Mr. PRIEST. Now, the language of this amendment ties revision down to the same procedure.

Mr. BUCK. Yes, sir.

Mr. PRIEST. If that was in the bill we passed last year, then it is not new at all.

Mr. BUCK. That is right.

Mr. PRIEST. I thank the gentleman.

The CHAIRMAN. Now, may I just interject this?

Mr. HESELTON. Yes.

The CHAIRMAN. I want to suggest that a member of the staff looked at the bill as reported out by this committee last year. It is my impression that the identical bill that passed the Senate is the one that this committee reported out, and if that is the case then it would have it on page 17 instead of where you have indicated it is.

Mr. HESELTON. May I go a bit further on this. Are you acquainted with the procedure by which the industry—and I take it that the retailers vote on this—how do they indicate their approval or disapproval?

Mr. BUCK. I am familiar with the way the textile industry votes and to some extent the way other industries vote.

Mr. HESELTON. How do you apply the 65 percent? Does that apply to the number of manufacturers, plus retailers—volume of business—or just what is the formula that you follow?

Mr. BUCK. In the textile industry, by which we mean the cotton manufacturers, the formula was applied to spindles. Spindles are generally taken as an indication of production.

Mr. HESELTON. That is 65 percent of all of the spindles in operation?

Mr. BUCK. Yes, sir.

Mr. HESELTON. Who conducts this survey?

Mr. BUCK. It is conducted by the Commodity Standards Division of the United States Department of Commerce.

Mr. HESELTON. That covers every spindle in operation in the country?

Mr. BUCK. I believe it does; so nearly as they can reach everyone.

Mr. HESELTON. What are the others? How do the rest of them, the retailers, for instance, express their opinion?

Mr. BUCK. I am less familiar with that, sir. It is not my particular business. But I believe they are represented to a certain extent through their trade groups.

Mr. HESELTON. Do you happen to know what the result of the survey on the proposed standards was?

Mr. BUCK. I know this, that all of the groups to which the standard was sent for acceptance did accept it in an amount of 65 percent or better than that. That was indicated to the Commodity Standards Division, when they proceeded with a promulgation.

Mr. HESELTON. I realize that you have deferred to some other witness, but would you be willing to state whether you know of any other existing law under which the promulgation of a regulation or standard by government is subject to the veto power on the part of those affected?

Mr. BUCK. In referring to a veto power, we are referring to a veto power of a revision.

Mr. HESELTON. Yes.

Mr. BUCK. Well, no.

Mr. HESELTON. Do you know of any similar instance of legislation?

Mr. BUCK. Well, I am relatively unfamiliar with that sort of thing. I believe in some of the Food and Drugs acts there are references to the Pharmacopoeia and other publications which are not under

Government jurisdiction; but I think that is one of the questions which should be left to the legal counsel.

Mr. HESELTON. Would you think that the procedures that have been developed in order to obtain this expression of opinion was sufficiently exact so as to represent a considered judgment on the part of those affected?

Mr. BUCK. Yes, sir; I think so, so far as the standard itself is concerned. I think it represented the considered judgment. And as a matter of fact it was only approved after a good many of these people had had an opportunity to use the test and see how it worked.

Mr. HESELTON. Would it not work out, as a matter of fact, something like this, that in actual practice—I am not criticizing it; but as to the industry affected, or the retailers affected, would they not have to rely in large measure upon the advice of their trade associations and would not the trade associations be the dominating factor and therefore be able to substitute their judgment for the Secretary of Commerce, after the Bureau of Standards had given him advice?

Mr. BUCK. I do not think so in this case. You see we are a trade association in a sense, and an industry group. We have no testing equipment. We have no laboratories. We rely on the elements of the industry to tell us how the test works, and we simply gather the consensus of the views of the industry on the subject.

Mr. HESELTON. I think it would be very interesting if you could supply the committee with any instances of that kind of veto power in Federal legislation.

Mr. BUCK. There is one point in this section on separability. If Section 4 (b) were found to be unconstitutional, I believe that the act would then stand on section 4 (a) which is more or less the proposal the chairman made, that it would simply be fixed as to the standard as it is now.

Mr. HESELTON. That is hardly a satisfactory way out. If there is a question of constitutionality we should meet it head on.

That is all, Mr. Chairman.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. I have been reading the record of the Senate proceedings in which Senator Johnson offered the Senate bill in that session, and it is very brief. The presiding officer presented the bill and then it goes on to state:

On page 11, after line 2, insert the following new paragraph:

“(i) The term ‘commercial standard’ means”, etc.

On page 17, after the word “establish” add a comma and the words “under the presently existing procedures for the establishment of commercial standards,”.

Obviously, on reading the language placed in the bill on page 17, in section 8, it is misplaced. It should have been in section 4, which would be on page 12 of that bill. So, the Senate clerk has made a mistake—or someone in the Senate—has made a mistake and said line 17 instead of 12, and so the language went in under section 8 instead of under section 4.

Then the House committee compounded the error by passing the bill out as it was. Is not that about true?

Mr. BUCK. Yes, sir.

Mr. HINSHAW. So we passed the bill out to the House under the same condition as it passed the Senate with an error existing on it.

Mr. BUCK. Yes, sir.

Mr. HINSHAW. Now under those circumstances, it is logical that we should correct the error before we pass it again, is it not?

Mr. BUCK. I think that is right.

Mr. HINSHAW. Well, if the error is to be compounded because it was first committed, why, of course, then those standards presently established if the Secretary did not change them would stay under section 8 and if we place that properly it will come under line 10 after the word "standard" in the present bill, H. R. 2768. I think that is all there is to it. It was just a compounding of errors, and it is not a question of difference or anything else.

The CHAIRMAN. Before I would be willing to agree in full with what has been said, I want to say this, that if a mistake has been made, it should not be compounded. However, in ascertaining first whether a mistake has been made, I would want to inquire further with respect to the purpose and intention of Senator Johnson in having made that amendment to the bill, so as to be convinced that a mistake has been made.

In the second place, even if it were placed at the point that has been suggested, it raises a question of policy, and I would not want to accept that, because of the questions that have been raised by other witnesses; a policy that I would not want to agree with, even though it were placed at the point where the witness states that it should be, and that is a matter for further consideration, in my opinion—and a very serious one—because it would have the effect of requiring in the future that the Secretary of Commerce could not make any change unless he pursued the procedure which in brief does require that there be 65 percent of the industry in favor of the change that he would wish to make. Therefore there is a question of policy as to whether Congress is to delegate to the Secretary of Commerce the authority in such a limited sense that he can only act with the consent of 65 percent of the industry, which raises to my mind a very serious question of policy that must have consideration.

Now, in that connection I have before me a memorandum of law. I will not read all of it at the moment.

The procedures referred to provide, inter alia, that promulgation of a commercial standard can take place only after written acceptances have been received which represent at least 65 percent of the volume of business, in the absence of valid opposition.

The constitutionality of such a delegation of power might be questioned on four specific points.

At this point I will just read one and, with the consent of the committee, will put the whole memorandum in at this point.

(1) The power conferred in the bill might be objected to on the basis that it is, in effect, a power to regulate the affairs of an unwilling minority of the manufacturers of such fabrics. As such it would come within the language of *Carter v. Carter Coal Co.*, 298 U. S. 238, 311 (1935): "This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body, presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business." See also *Eubank v. City of Richmond*, 226 U. S. 137 (1912); *Seattle Title Trust Co., etc. v. Roberge*, 278 U. S. 116 (1928).

If there is no objection on the part of the committee I will introduce this memorandum of law.

Mr. CROSSER. Where does that come from?

The CHAIRMAN. It comes from the Federal Trade Commission and from the Department of Commerce and is signed by the Assistant General Counsel of both.

(The memorandum of law referred to follows:)

APRIL 21, 1953.

MEMORANDUM OF LAW

CONSTITUTIONALITY OF THE DELEGATION OF AUTHORITY PROVISIONS OF H. R. 4159,
3851 AND 4500

By section 4 (b) of the above-mentioned bills the Secretary of Commerce would be authorized to modify or supplement the test methods, procedures, and standards provided in the bills by adopting any revision or amendment to "Flammability of Clothing Textiles, Commercial Standard 191-53" and/or any new applicable commercial standard provided that any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53. The procedures referred to provide, inter alia, that promulgation of a commercial standard can take place only after written acceptances have been received which represent at least 65 percent of the volume of business, in the absence of valid opposition.

The constitutionality of such a delegation of power might be questioned on four specific points:¹

(1) The power conferred in the bill might be objected to on the basis that it is, in effect, a power to regulate the affairs of an unwilling minority of the manufacturers of such fabrics. As such it would come within the language of *Cartre v. Carter Coal Co.*, 298 U. S. 238, 311 (1935); "This is legislative delegation in its most obnoxious form; for it is not even delegation to an official or an official body, presumptively disinterested, but to private persons whose interests may be and often are adverse to the interests of others in the same business." See also *Eubank v. City of Richmond*, 226 U. S. 137 (1912); *Seattle Title Trust Co., etc. v. Roberge*, 278 U. S. 116 (1928).

(2) The courts may examine the delegation of powers more critically when violation may result in criminal punishment. Since provision is made in this proposed legislation that violation of its provisions is punishable as a misdemeanor, language in *Panama Refining Co. v. Ryan*, 293 U. S. 388, 432 (1934), in that regard is in point:

"If the citizen is to be punished for the crime of violating a legislative order of an executive officer, or of a board or commission, due process of law requires that it shall appear that the order is within the authority of the officer, board or commission, and if that authority depends on determinations of fact, those determinations must be shown."

(3) Under the procedures adopted by reference in this legislation, promulgation shall be effected after written acceptances representing at least 65 percent of volume of business, "in the absence of valid opposition" have been received. The language "valid opposition" is susceptible of many interpretations and might therefore come within the prohibitions of the "void for vagueness" rule as established in *Panama Refining Co. v. Ryan*, 293 U. S. 388 (1935) and *A. L. A. Schechter Poultry Corp. v. U. S.*, 295 U. S. 495 (1935). Admittedly, the Supreme Court of the United States has not used these decisions since the time they were laid down to declare any provisions of law unconstitutional on the basis of an unlawful delegation of authority, but it is urged that the vagueness of the words "valid opposition" when coupled with the objections to the bill raised in (1) and (2) supra, constitutes a cogent reason for denying the validity of the proviso of 4 (b).

(4) Further, it can be forcefully argued that section 4 (b) would not only attempt to regulate the affairs of an unwilling minority of the manufacturers of such fabrics, but also, under certain circumstances, an unwilling majority of the public in derogation of the public welfare for the power which would be entrusted to an interested "65 percent of the volume of business" could be used to defeat

¹ Cf. Jaffe, *Law Making by Private Groups* (1937), 51 Harv. L. Rev. 201.

the very purposes of the bill by allowing dangerous fabrics not proscribed by the standard established by the bill to be shipped in interstate commerce.

HENRY MILLER,

Assistant General Counsel, Federal Trade Commission.

KENNETH F. MCCLURE,

Assistant General Counsel for Domestic Affairs, Department of Commerce.

Mr. HESELTON. Mr. Chairman, will you yield at that point?

The CHAIRMAN. Yes.

Mr. HESELTON. I intended to ask you how you arrived at the 65 percent; why not 60 percent or 55 percent; or some other figure.

Mr. BUCK. I think that was—well, it goes back rather far in history in the use of commercial standards. I think it must have been aimed at two-thirds, and 65 was considered close enough for that.

Mr. HESELTON. Do you think they were aiming at 66⅔ and did not quite get there?

Mr. BUCK. That would be my impression; but I do not know, sir.

Mr. HESELTON. That is all.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. Is the method of establishing standards a matter of law or is it a matter of the establishment of some standard by fiat, or what?

It may be that the staff can answer that question, Mr. Chairman.

(After informal discussion between Mr. Hinshaw and members of the staff.)

Mr. HINSHAW. I think that I will carry that question over and ask the question of a witness from the Bureau of Standards or the Federal Trade Commission or the Department of Commerce, as the case may be, when they appear on the stand.

There appears to be an outline of procedure which has been adopted by industry or the trades for voluntary standards.

Now, that voluntary standard apparently is not binding as yet upon any segment of the trade but is merely an establishment of a standard, and there is no penalty for violation, and consequently I think it fair to make some further inquiry before comment is made upon it.

Mr. HALE. Mr. Chairman.

The CHAIRMAN. Mr. Hale.

Mr. HALE. Returning, Mr. Buck, just a moment, to this language on page 5, H. R. 2768:

The Secretary of Commerce is authorized and directed to establish test methods.

And so forth.

Would you say, as a matter of fact, that that means that the Secretary of Commerce is authorized and directed "from time to time" to establish?

Mr. BUCK. I see no reason why it should not be interpreted that way, sir.

Mr. HALE. My own view is that it should be interpreted that way and if we intend to give the Secretary of Commerce a continuing authority to establish standards, I think this phrase "from time to time" should be inserted after the words "authorized and directed." So far as I am concerned, I would say at this stage of the discussion that I would not vote for a bill which delegated to the industry the

authority of regulating itself, because such legislation is virtually no legislation at all. It represents, in the language of the opinion, already quoted, the "most obnoxious form of delegation."

You spoke about the Pharmacopoeia. There is no legislation in connection with the drug industry which permits the drug manufacturers, or 65 percent of them, to modify the standards of purity at will.

Mr. BUCK. This, I believe, sir, does not give the industry authority to make any change in this legislation. It is only to have a voice in the changes, and if I might refer to it, although I am not an attorney, to the opinion read by the chairman, the difference seems to me that while this might be held—well, the use of the commercial standard might be held as forcing something on an unwilling minority of the industry, the other approach is foisting something on an unwilling majority of the industry.

Mr. HALE. Certainly there is no doubt about that. That is what is always done when you regulate industry. When you regulate an industry you regulate them whether they like it or not.

Mr. BUCK. I think that that should be the power of the Government to do that, and I think industry——

Mr. HALE. I agree with you.

Mr. BUCK. And I think industry is willing to concede that, sir; but on an important point like this, don't you think we should have some voice in it? Perhaps you can come up with a suggestion, a better mechanism.

Mr. HALE. I think that industry is amply justified in coming to this committee and to the Congress and saying, "We want a definite objective standard so that we will know what the requirements of the law are." And, I can see very substantial objections to giving the Secretary of Commerce authority from time to time to modify the standard; but that seems to me far less objectionable than giving the industry power from time to time to modify the standards.

Mr. BUCK. The industry would not have that power, sir, without the approval of the Secretary of Commerce.

This wording says that no such test, method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless in his opinion such test, method, procedure, and standard are adequate for the protection of the public interest.

So you see that is fully binding on any industry or anything that the industry might do in any revision. It has to be a cooperative approach.

Mr. HALE. Well, taking any view of the matter, you see the force of what you are saying is——

Mr. BUCK. I beg your pardon?

Mr. HALE. Taking any view of the matter you will, you are still giving industry a veto of the Secretary, and in a sense a veto of the Congress.

Mr. BUCK. In revisions; yes, sir; not a veto of the Congress, sir.

Mr. HALE. Very well.

The CHAIRMAN. A veto of what Congress has already done.

Mr. HALE. Yes.

Mr. CARLYLE. Mr. Chairman.

The CHAIRMAN. Mr. Carlyle.

Mr. CARLYLE. As I understand your statement—and I have tried to follow you carefully—you wish to place two principal restrictions on the Secretary of Commerce; on the power of the Secretary of Commerce.

The first is that he shall not have the authority to set up the standards without restrictions as to the methods that he should use in setting those standard up. Is that correct?

Mr. BUCK. Well, I should like to take steps, sir, to see that the standards are set up now.

Mr. CARLYLE. Well, I understood that a little differently, as to what the standards should be; that you were unwilling for the standards to be definitely accepted.

Mr. BUCK. No, sir.

Mr. CARLYLE. Unless there were certain restrictions that would regulate his method of determining those standards.

Mr. BUCK. No; we agree with the standard which is set up now and which this committee has put in the bill. The standard is set up by the Secretary of Commerce. We support it. It is incorporated in the bill.

Mr. CARLYLE. Well, now, I understood you spoke of some restrictions.

Mr. BUCK. Yes, sir.

Mr. CARLYLE. What were those?

Mr. BUCK. The restrictions we referred to have to do with any changes of these standards to something else.

Mr. CARLYLE. I understood that there were some restrictions relating to the method of determining the standards. That is not correct, is it?

Mr. BUCK. No; just changing the standards.

Mr. CARLYLE. Now you are saying that the Secretary of Commerce should not have the authority to change the standards without first obtaining the consent of 65 percent of the industry.

Mr. BUCK. Well, I submit, sir, that in this bill, H. R. 2768, you are passing, considering legislation which restricts certain fabrics; and, according to this test method referred to in this section 4, we know what fabrics are restricted. They are rayon pile fabrics; certain nitroze, and so on.

If you go on and say that the Secretary of Commerce has authority to set any other standards in place of these, then you are adopting or proposing legislation about which we have no idea of the coverage. We do not know whether you are ruling out the shirt we are wearing here, because you give the Secretary of Commerce that authority, if you say that he can disregard entirely the standards upon which we start. That is what we object to.

Mr. CARLYLE. Is it your thought that when 65 percent of the industry has agreed upon some course of action that they would recommend to the Secretary of Commerce or that the agreement that 65 percent had arrived at, that would be binding upon the Secretary of Commerce?

Mr. BUCK. No, sir; it is not binding upon the Secretary of Commerce.

Mr. CARLYLE. Well, what force would it have, then?

Mr. BUCK. It would work like this: If this law takes effect and section 4 is operative and the commercial standard CS 191-53 becomes a testing instrument, that is binding on everyone in the industry.

Mr. CARLYLE. Are you asking this committee to say that, when 65 percent of the industry has agreed, then that should be binding upon the Secretary of Commerce?

Mr. BUCK. No, sir. All I am saying is that if, after the law is in effect, there is something found to be desired, if there is an improvement in the testing instrument, and the industry agrees it is desirable, and the consumer groups agree that it is desirable, and finally the Secretary of Commerce himself finds it is in the public interest, then the revision can take place; but it has to be with the approval of the Secretary of Commerce, as stated here.

Mr. CARLYLE. Well, the 65 percent of industry that you speak of will include the manufacturers?

Mr. BUCK. And the wholesalers and retailers.

Mr. CARLYLE. Does it take into consideration the consumers?

Mr. BUCK. It takes into consideration the consumer groups.

Mr. CARLYLE. How could you know that you have 65 percent of the consumer groups?

Mr. BUCK. Frankly, we cannot take a poll of 65 percent of the consumers, but the consumer groups are represented on the standing and technical committees of what is called the Committee on Commercial Standards. It is an official committee of the Department of Commerce. They are fully represented, and their viewpoints are presented there to that committee.

Now the Secretary of Commerce himself represents the vast public of our country, I assume, and he is charged with not changing the standards unless in his opinion the change meets the public interest, and I should think that would be sufficient protection.

Mr. CARLYLE. So then it is your idea that the 65 percent that you speak of only give an advisory opinion, and such opinion is not binding upon the action of the Secretary of Commerce.

Mr. BUCK. It is more than advisory.

Mr. CARLYLE. How much more?

Mr. BUCK. It is a limitation upon the Secretary of Commerce.

Mr. CARLYLE. Limiting him?

Mr. BUCK. Yes, sir. And he also limits them. It is a mutually protective arrangement for changes only in the bill. It does not affect the bill as it stands.

Mr. CARLYLE. That is all, Mr. Chairman.

The CHAIRMAN. Any further questions, gentlemen?

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. It is really putting it mildly to say that it is a limitation. That is a mild statement. It practically prohibits the Secretary of Commerce from changing the rules unless it meets the approval of 65 percent of the industry.

Mr. CARLYLE. I understood that it restricted him.

Mr. HINSHAW. It restricts him very materially.

The CHAIRMAN. It is more than a limitation. It is an elimination.

Mr. BUCK. Mr. Chairman and Mr. Hinshaw, you establish what you believe to be a sound standard. The industry cannot change that.

It is true that the Secretary of Commerce cannot also change it without industry's agreement. In other words, it binds the Congress in no way whatsoever; and, if the Secretary of Commerce feels strongly enough that he is stymied by industry on a desirable change, would he not also have recourse to the Congress?

Mr. HINSHAW. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. Let us place the matter in an inverse position. Suppose we say in section 4 that the Secretary of Commerce can promulgate different standards and amend standards which standards shall not take effect until 1 year after they are promulgated, and give the industry an opportunity to reorganize itself and its stock of merchandise.

Now during that year, if the industry does not like the standard that has been set up, then it has an opportunity to come into Congress and obtain any redress or correction or otherwise that it wants, because it does not take effect for a year.

Now would not that sort of thing—incidentally, that sort of thing is constitutional—would not that sort of thing suit your purpose just as well as the procedure which you outline?

Mr. BUCK. It would seem to me that that would be an improvement. The only possible disadvantage would be where in case where the Secretary of Commerce, industry, and the consumers all agreed that an immediate change was desirable. That would be eliminated.

Mr. HINSHAW. Of course, then we could put in a provision for an emergency procedure.

Mr. BUCK. That would be highly desirable. As far as that is concerned, may I call to the attention of the committee the California law on flammable fabrics. After that was put into effect, two whole sections were suspended because it was found that, to enforce the obligation of the testing methods, it would have done just what I described in my statement. It would have deprived the women of California of all their summer dresses through a misapplication of the tests.

The CHAIRMAN. That would have been a terrible catastrophe.

Mr. HINSHAW. Not so fatal in California as some other places.

The CHAIRMAN. I do not know about that.

Mr. DOLLIVER. Mr. Chairman.

Mr. HINSHAW. Just a moment. Now it is obvious, as Mr. Heselton and others have pointed out, that the procedures which you have recommended here are very likely to be held unconstitutional because we cannot delegate power to industry. We can only delegate power to an officer of the Government; and to have his power in turn delegated to industry or subject to an industry veto would, in my opinion, be strictly unconstitutional.

Mr. HALE. And this would be a delegation on a delegation.

Mr. HINSHAW. And this is delegation on a delegation, as my friend Mr. Hale points out. You do not want a law which is unconstitutional either.

Mr. BUCK. No, sir.

Mr. HINSHAW. Now, if you turn it around and any further amendment should not be effective until one year, with an emergency procedure, as you have put it, you will have something that is constitutional and have something that is not going to take effect immediately,

and if a Congress is foolish enough to follow an unsound Secretary of Commerce, then, of course, the jig is up.

Mr. BUCK. I believe that the proposal you make, sir, would be satisfactory to all groups in the industry so far as I know.

The CHAIRMAN. So that we may have a clear understanding of the importance of the suggestion and your agreement, what do you mean when you say that you want to be in a position to meet an emergency? What do you mean by "emergency"? Would you give us an illustration of what an emergency consists of, in your mind?

Mr. BUCK. In giving it to you, I would have to realize that an emergency from the industry's point of view might not be an emergency from someone else's point of view.

The CHAIRMAN. You can answer either way, so long as you give us some idea of what you mean by the use of the term "emergency."

Mr. BUCK. This testing method, when it was designed, was designed simply to pick out the dangerous fabrics from the safe ones. The measure, as I pointed out, was the burning time. It measures the burning time; it measures the flame intensity; it measures the ease of ignition.

Now, an emergency might—here is what I would call an emergency: If we have neglected to test a large or important segment, or type of fabric which no one considers dangerous, which has never caused any injury or death, yet which this test method may fail to prove as safe—and I can give the opposite thing. Suppose that a new fabric is developed, which is dangerous, and this test method does not classify that type of fabric properly. You would still want to make an adaptation to show that fabric to be dangerous. That would be an emergency. Now, I cannot foresee one of those immediately ahead, but it did occur in California where the test method was not adaptable to the fabrics being used, and the provision had to be suspended. That was an emergency.

The CHAIRMAN. Assuming an emergency such as you have described, would that require an individual manufacturer to have the rule changed or make application to have the rule changed on his own initiative?

Mr. BUCK. Suppose that you have one of these operators that we describe as fly-by-night operators; the type that produced the torch sweaters, and he develops a fabric of a type which I cannot foresee now; but which would be dangerous for some reason or another; be inflammable and dangerous; yet not found to be so on the instrument. How would you proceed against such a manufacturer unless you could revise your test instrument to declare that dangerous?

The CHAIRMAN. Well, in that instance you would be afraid that the Secretary of Commerce would not accede to your thought that there was an emergency and be willing to make an order that would fit that circumstance?

Mr. BUCK. No; it is not a matter of that, Mr. Chairman. I think that in proceeding against that one fabric, the Secretary of Commerce should be very careful as to how the changes in his methods would affect other fabrics, and that is why we have requested that we be given a voice in what is done.

The CHAIRMAN. Very well. Are there any further questions?

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. In looking over this pamphlet entitled "Voluntary Standards Adopted by the Trade" I find another condition in here besides the 65 percent, referring to "tentative proposals made." It reads as follows:

If acceptances are received representing at least 65 percent of the volume of business, and there is no active, valid opposition, the National Bureau of Standards promulgates the standard as a voluntary standard of the trade, issued as one of a printed series of commercial standards.

I would like to know how you determine that there is any active, valid opposition.

Mr. BUCK. That is the work of the Secretary of Commerce.

Mr. HESELTON. The Secretary of Commerce?

Mr. BUCK. That would be the Secretary of Commerce.

Mr. HESELTON. What would constitute a valid or active opposition?

Mr. BUCK. Well, I assume that a valid objection would be one which was so soundly based that it would convince him that his own viewpoint was in error.

Mr. HESELTON. Even though 65 percent or a greater percentage of the volume of the business disagreed, you still say that that would be a determination to be made by the Secretary on his own responsibility?

Mr. BUCK. The Secretary of Commerce does have the responsibility in any case, even if 65 percent approves or disapproves of a suggested change, and he could be influenced by a particular objection which he might consider valid; but it would be up to him.

Mr. HESELTON. That is all.

Mr. HINSHAW. It is obvious from what you have said that we would have to put some definition in the law, before writing it. We could not possibly adopt a voluntary standard in the law.

Mr. BUCK. You mean a revised one, sir?

Mr. HINSHAW. Well, a revised one.

The CHAIRMAN. Are there any further questions, gentlemen? If not, this will conclude our testimony at this time.

I want to compliment you, Mr. Buck, on the character of the testimony that you have given to us that enables us to understand the viewpoints which are opposed to the legislation. You have certainly been frank and indicated a knowledge of the subject that can be very helpful to the committee when it gives consideration to the matter, and we thank you very much.

Mr. BUCK. May I thank the chairman and the members of the committee for the privilege of testifying, and urge that a bill be brought forth. Thank you.

The CHAIRMAN. I might suggest that it might not be necessary for other witnesses to take so much time, in view of the fact that this witness has answered so many questions.

We will stand adjourned until 10 o'clock tomorrow morning.

(Thereupon, at 12:10 p. m., the committee adjourned to meet at 10 a. m. Wednesday, April 29, 1953.)

FLAMMABLE FABRICS ACT

WEDNESDAY, APRIL 29, 1953

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in room 1334, New House Office Building, Hon. Charles A. Wolverton (chairman) presiding.

The CHAIRMAN. The committee will come to order.

The committee will resume its hearings on H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500.

The first witness will be Mr. Charles W. Dorn.

STATEMENT OF CHARLES W. DORN, DIRECTOR OF THE RESEARCH LABORATORY OF J. C. PENNEY & CO., NEW YORK, N. Y., REPRESENTING NATIONAL RETAIL DRY GOODS ASSOCIATION

MR. DORN. Mr. Chairman and members of the committee, my name is Charles W. Dorn. I am Director of the Research Laboratory of J. C. Penney & Co., New York City, and I appear here today in my capacity of chairman of the technical committee of the National Retail Dry Goods Association, a voluntary trade association comprising some 7,500 department, specialty, and chain stores located in every State of the Union, representing well over \$10 billion of the retail trade in this Nation.

I am a senior member of the American Association of Textile Chemists and Colorists, and chairman of its general research committee, a member of the American Society for Testing Materials, a member of the Textile Research Society for Testing Materials, a member of the Textile Research Institute, and an official collaborator in the Cotton Textile Finishing Division of the Southern Regional Research Laboratories of the Department of Agriculture. I am also on the research steering committee of the Society of the Plastics Industry as representative of the American Association of Textile Chemists and Colorists.

This statement is presented to urge the enactment of H. R. 3851 introduced by Congressman Gordon Canfield of New Jersey and H. R. 4159 introduced by Congressman Leroy Johnson of California and also H. R. 4500 introduced by Congressman Williams of Mississippi. The bills are identical in all respects and would protect the American public from certain fabrics and wearing apparel which are so highly flammable as to be dangerous when worn by individuals. The problem of dangerously flammable apparel has been of great concern to the consumer and the businessmen of this Nation for years. The stand-

ards which have been incorporated in these bills were developed for the sole purpose of stopping the needless waste of human life resulting from the use of such apparel. As I shall point out, corrective legislation is urgently needed with the least possible delay.

The standards upon which this legislation is based represents 8 years of tireless effort and study by some of the best technical minds of the textile industry in the United States. The technical committee of the National Retail Dry Goods Association, with the support, advice and counsel of the American Association of Textile Chemists and Colorists, working in close conjunction with the National Bureau of Standards and the textile industry has worked since 1945 to develop the standard referred to in H. R. 3851 and H. R. 4159. Our continuing efforts have been partially successful, for these standards have been promulgated by the United States Department of Commerce, effective January 30, 1953, as Commercial Standard 191-53, Flammability of Clothing Textiles.

Many business organizations voluntarily have geared their production to conform with these official standards of the United States Department of Commerce and many others will follow as quickly as possible. Nonetheless, these voluntary standards by themselves are insufficient because they do not deter the fly-by-night, get-rich-quick operator, who has been the chief culprit in the manufacture and distribution of dangerously flammable apparel. Legislation, Federal and State, incorporating these standards into law, must be enacted on a uniform basis, and this can be accomplished only by a Federal statute which may serve as a model for action by the several States.

I should like to emphasize that H. R. 3851 and H. R. 4159 are not "special interest" bills. They are in the highest public interest for they will eliminate interstate traffic in dangerous wearing apparel, and they will serve as a pattern for State and local enactments which will insure complete protection for the consuming public.

The NRDGA has always believed that the United States grew strong because of the sovereignty of the individual States and has staunchly opposed extension of Federal jurisdiction over matters best handled at the State level. In this instance, however, we firmly believe that the Congress must lead the way. Recently several States and a number of city and other local bodies have considered legislation on the subject of dangerously flammable apparel. Only one State, California, has adopted such legislation. The confusion which is bound to result if the several States were to legislate individually on this subject, is obvious, for in the absence of a national standard, each State and local community would provide for different guides or measurements. I can readily testify that this is not an idle conclusion, for in the past months the possibility of a Federal enactment has been the sole basis for postponing very unsatisfactory legislation in several States.

Failure by this Congress to act undoubtedly will cause a flood of haphazard local legislation which will not only bring on an impossible situation in the textile industries, but more important, will deny to many consumers the responsible protection contained in the proposed bills.

The manufacturers of your respective States would have great difficulty in producing garments or fabrics which would comply with the different requirements of 2 or 20 different State acts to say nothing

of different local ordinances. And those residents of States which failed to act would have no protection at all. For these reasons I urge the Congress to legislate on this subject and thus insure uniformity and protection for all.

The NRDGA committee which I head has spent more than 8 years of concentrated effort on the subject of flammable apparel. Each line and each word of the commercial standards has been argued and discussed and thrashed out with every affected segment of the textile industry from the yarn producer to the retail counter. The standards represent the collective diligent and unselfish labors of many in the best interests of the consuming public.

The Canfield-Johnson bill would bar wearing apparel as well as fabrics intended for use in wearing apparel from the channels of interstate commerce if such articles or materials are dangerously flammable when worn by individuals. The bill is practical and workable and provides not only for the present, but is sufficiently flexible to continue consumer protection in the future.

Mr. Chairman, the balance of this statement covers various phases of the bill which have already been covered very amply. In the interest of saving time, with your permission, I would like to skip that part of my testimony. You have it in written form.

The CHAIRMAN. But you wish it to be made a part of the record?

Mr. DORN. I wish to have it made a part of the record.

Mr. Leonard Rovins, general counsel of the National Retail Dry Goods Association, is present and is the one really to discuss the various phases of the bills with you, rather than myself. I think he has some information which may answer some of the questions that were brought before the committee yesterday.

The bill provides a flammability standard for wearing apparel and fabrics according to testing methods prescribed in applicable commercial standards for which the United States Department of Commerce is responsible. Flexibility is provided in the event of new processes by tying the statutory standard to future changes or additions in the commercial standards which may be dictated by technological advancements. As indicated previously, the bill would incorporate into law the standards, test methods, and procedures contained in the United States Department of Commerce, Commercial Standard for Flammability of Clothing Textiles, CS 191-53, promulgated by the Secretary of Commerce effective January 30, 1953. The bill also provides for future revision or amendment to the said commercial standard and even for the adoption of new applicable commercial standards by means presently available to the Secretary of Commerce, thus obviating the need for further legislative action should technological developments make the current commercial standard antiquated.

The administration of the proposed act is vested in the Federal Trade Commission, an agency exceedingly well qualified by experience to administer the law in the best interests of all.

Penalties include treatment of violations as an unfair method of competition under the Federal Trade Commission Act, as well as subjecting a violator to criminal prosecution for a misdemeanor with fines up to \$5,000 or imprisonment for a period of 1 year or both.

In addition, the Federal Trade Commission is authorized to seek injunctions against violations when the public interest dictates prompt

action to avoid endangering human life. Furthermore, the Federal Trade Commission is authorized to institute proceedings by process of libel for the seizure and confiscation of highly flammable apparel or fabrics to halt the distribution of such dangerous material. If the goods are condemned, the injured party may reclaim his merchandise upon posting a bond that the wares will not be disposed of for wearing apparel purposes unless properly and adequately treated so as to render them lawful under the act.

Exemptions are provided from the restrictions of the statute only for those persons who would necessarily be innocent bystanders in the processing of apparel or fabrics solely by reason of their role in our economic system. Thus, under section 11 of the bill, common carriers would be exempt. Similarly, exemption would apply to converters, processors, or finishers performing a contract or commission service for the account of another person provided that they did "not cause any article of wearing apparel or fabric to become subject to this act contrary to the terms of the contract or commission service." Full responsibility for statutory compliance would continue to rest on the person for whose account the service was performed. Another exemption is extended, properly in our opinion, to any person who ships illegal apparel or fabric in commerce if the purpose of the shipment is to have the goods processed so as to render them not highly flammable. The only other exclusion covers a manufacturer who produces for export where the articles in question are made in accordance with the specifications of the foreign purchaser. Please note that this would apply solely to so-called special orders from foreign sources and would not provide any loophole for violations at the domestic level. As a matter of fact, the whole tenor of the bill would discourage the production of goods of a highly flammable and dangerous character and probably would make it at least difficult if not impossible for foreign purchasers to obtain noncompliance merchandise.

Innocent bystanders in the channels of distribution who find it impossible to determine the degree of flammability of apparel are protected from the penalties provided in the act under section 8 which makes available to such persons guaranties from the manufacturer or shipper of the goods in question. Attention is invited to the fact that providing such guaranties does not in any manner or form relieve the guarantor from any of the penalties prescribed for his violations, if any, of the requirements of the act.

If enacted, the bill would become effective 12 months from the date of passage, thereby providing needed time for all concerned to arrange production and stock in conformity with the act.

The Canfield-Johnson bill has the complete support of consumer groups and has the endorsement of all segments of the textile industry. It recognizes and incorporates into law Commercial Standard 191-53, adopted and promulgated as an official standard of the United States Department of Commerce. It provides practicable workable standards for flammability and outlaws dangerously flammable apparel and fabrics intended for use in wearing apparel. It represents a great stride forward in protecting the public from maiming and even death from dangerously flammable apparel and it deserves prompt and favorable action by the Congress of the United States. Failure to

enact this bill in this session of the Congress may result in a rash of State and local laws which can legislate the apparel and allied industries into chaos.

In closing, I want to extend retailing's commendations and praise to Chairman Wolverton and Representative Canfield and Johnson for their support of such legislation.

I respectfully request that Commercial Standard 191-53, Flammability of Clothing Textiles, be made a part of this record.

Thank you for the opportunity to appear before you this morning.

Mr. DOLLIVER. Mr. Chairman.

The CHAIRMAN. Mr. Dolliver.

Mr. DOLLIVER. I observe, Mr. Dorn, that you are interested in connection with the sale of dry goods material used for clothing; and you are also connected with the scientific end of the manufacturing business; is that true?

Mr. DORN. Yes, sir; that is right. I run the research laboratory of J. C. Penney & Co.

Mr. DOLLIVER. I am not a scientist and I wonder if it would not be possible for you to explain to us, for the record, these standards of flammability so we will have it in understandable language.

Just how do you test a piece of merchandise as to its flammability and what are the standards in common language?

Mr. DORN. There is a machine that has been developed for this purpose known as the flammability tester. It is incorporated in the Commission's standard as the testing instrument.

The material that is tested is put in in its most hazardous condition. That is, in the bone dry state, because materials will burn more rapidly when they are thoroughly dry than they will if they have a certain amount of moisture in them. So they are tested at the state where they are most hazardous. They are then placed in the machine. A flame comes in contact with the material for a period of one second. If the materials ignite, and if it burns at a rate of speed that is less than 4 seconds, it is considered dangerously flammable.

Now, that rate of burning was established by taking materials that were known to have caused difficulty; that is—the cowboy suits—these torch sweaters, materials of that sort, and testing them in the machine. In testing them they burned so rapidly that you could hardly get a reading, but a band, a large band of burning was established so that there would be a margin of safety in that machine.

I hope that explains it to you. It is rather difficult to talk about these things without having a machine present to show you.

Mr. DOLLIVER. As I understand it, the standards have been set up with respect to a machine whose operations are based upon a theoretical situation rather than an actual one; is that correct?

Mr. DORN. No; the situation is simulated; the actual situation is simulated in the machine.

Mr. DOLLIVER. Is the same condition of temperature and moisture and movement of air, and supply of oxygen, and all of the various factors of flammability taken into account?

Mr. DORN. They are all taken into account in the machine.

You must be aware of the fact that a fabric when worn is subject to many differences. In other words, it may be moist at one time. It may be dry at another time. For instance, if someone had a fabric on and was standing in front of the fireplace for a period of time,

that fabric dries out and becomes much more hazardous in that state than it would if it contained some moisture. Therefore, we set up the the most hazardous state for the tests.

Mr. DOLLIVER. What percentage of the wearing materials that are on the market would be determined hazardous under this particular test?

Mr. DORN. An extremely small percentage of today. I would like to point out this, that this standard which is now a commercial standard was in existence as a tentative standard for a period of 3 or 4 years and since that came out as a tentative standard we immediately had a drop in the use of flammable materials for sale over the counter, because we had an instrument to measure them by. True, about a year and a half ago we had these torch sweaters on the market, but I would like to point out to you that they were not sold by dry-goods stores. They were purely peddled from house to house by peddlers and truckdrivers over the United States, and they were not made, apparently, by reputable manufacturers.

Mr. DOLLIVER. Where are these tests made of these various materials; are they made by the manufacturers; by the retailers; the wholesalers; or where along the line of distribution are the tests made?

Mr. DORN. They would be made at the mill first. Many of the mills would probably use commercial laboratories that have these machines, and in the case of my company, and many other retailers who maintain laboratories, they would receive a check test at that point before they went on the counter.

Mr. DOLLIVER. Is there any general understanding as to the relative flammability of different kinds of materials? That is, let us say, between wool, cotton, and synthetics?

Mr. DORN. As a general rule, the cellulose materials, that is, those with a cellulose base, have a tendency to burn faster than those with an animal fiber base. In your synthetics, some of them burn more rapidly than others. They are largely subject to melting, more than to burning, and in melting they exclude oxygen and do not burn so rapidly.

Mr. DOLLIVER. A fabric which melts rather than burns would not present a fire hazard; is that true?

Mr. DORN. Would not present so much of a fire hazard; no sir.

Mr. DOLLIVER. By a cellulose base, you mean a vegetable base?

Mr. DORN. Yes, sir; such as cotton, linen, rayons; rayon is in the same category; that is, made from cellulose.

Mr. DOLLIVER. As a result of this bill, if this bill were passed, there would be a prohibition in the use of these materials in interstate commerce. Do you think that would be an effective method of dealing with the situation, because there are no provisions covering intrastate commerce?

Mr. DORN. I would say that the very large majority of materials sold in the retail stores come into interstate commerce at some stage of the game. True there is a possibility that the man could manufacture a cloth, say, within the State of New York, have it sewed into a garment within the State, and sell it within that State. To cover such a thing as that, it would have to be covered at a State level for the intrastate situation; but the thing that industry is so disturbed about is if these laws are made up at the State level, all over the

United States, each State is apt to have a different method of determining the flammability, and it would be almost impossible for the manufacturers to live under those conditions.

MR. DOLLIVER. That is one of the reasons that industry favors a Federal rather than having 48 different State laws?

MR. DORN. That is it.

MR. DOLLIVER. In your opinion, does this bill set up a satisfactory standard?

MR. DORN. Yes, sir.

MR. DOLLIVER. Is it the same standard which you mentioned a moment ago that has been accepted by the industry?

MR. DORN. That is right.

MR. DOLLIVER. Then, what we would be doing here would be to put into legal effect, the standards that have already been accepted by industry as to flammability?

MR. DORN. That is right.

MR. DOLLIVER. Thank you. Mr. Chairman, that is all.

THE CHAIRMAN. Are there any further questions, gentlemen?

MR. DORN. May I suggest to the chairman that Mr. Rovins, general counsel for the National Retail Dry Goods Association, make a few remarks pertaining to the balance of this statement.

MR. HINSHAW. Mr. Chairman.

THE CHAIRMAN. Mr. Hinshaw.

MR. HINSHAW. May I inquire concerning the subject of an amendment that we talked about yesterday. The committee has caused the drafting of a certain amendment on page 5, line 20, of H. R. 3851. I do not have the bill here. I do not know that it refers only to 3851. I do not know whether I should say that specifically. I think it also relates to 2768.

THE CHAIRMAN. Will the gentleman yield to the chairman for just a moment?

MR. HINSHAW. Yes.

THE CHAIRMAN. On yesterday, when I was examining the witness that was then before the committee, I specifically asked him to set forth what objections he had to section 4 of H. R. 3851 or H. R. 2768, which are similar bills, and the original ones introduced in this matter.

It was ascertained there were certain words that he suggested had been improperly placed in the bill reported by the Senate as having been put at page 17 when it should have been at page 12.

Growing out of that discussion between us, the gentleman from California, Mr. Hinshaw, asked if fear of action that would be taken by the Secretary of Commerce in changing this standard could be relieved by an amendment to the bill—I am speaking now of the original bill, H. R. 389 and H. R. 2768—which would set forth any change could not be made effective under 1 year, and answer was made that indicated that that might be sufficient. However, during the night we have had the legislative counsel put that suggestion into legal form and it is that amendment that Mr. Hinshaw now wishes to bring to your attention, as an amendment to section 4 on page 5 of 369, and the same with reference to H. R. 3768.

MR. HINSHAW. I find that this is drawn for H. R. 3851, section 4 (a) and section 4 (b), and that those sections are very different in those two bills.

The CHAIRMAN. Very well.

Mr. HINSHAW. So the idea is here to apply to any one of the bills.

The CHAIRMAN. It applies to the other two just as well, I think.

Mr. HINSHAW. If finally redrafted, yes. The amendment is as follows:

Any such revision or amendment shall be made by an order which shall be published in the Federal Register—

Mr. HALE. That is drafted for which bill?

Mr. HINSHAW. It is drafted for H. R. 3851.

Mr. HALE. Where does that come in?

Mr. HINSHAW. Page 5, line 20. It can apply to section 4 of the other bills, I believe.

Mr. HESELTON. Line 20, page 5.

Mr. HINSHAW. Yes.

Mr. HESELTON. Lines 18 to 20?

Mr. HINSHAW. This is a suggested amendment to H. R. 3851, page 5, line 20, strike out the colon and all that follows through line 23, and insert in lieu thereof a period and the following:

Any such revision or amendment shall be made by an order which shall be published in the Federal Register. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the expiration of one year after the date on which it is so published and unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall set forth in the order his findings as to such emergency conditions.

The CHAIRMAN. Mr. Hinshaw, may I ask Mr. Perley of the legislative counsel's office to indicate where the amendment would be on H. R. 389 or H. R. 2768.

Mr. PERLEY (House Legislative Counsel's Office). That is a little difficult to say, Mr. Wolverton, because of the controversial language. That is the language which apparently was intended—at least it was alleged was included in Senator Johnson's amendment but never got into the bill in the right place. I take it that the principle of that amendment would be either to keep that out of the bill or to eliminate it and it is just impossible for me to say offhand exactly what the text of the amendment would be to the other two bills. They are written somewhat differently.

I feel that from a drafting standpoint, the bill to which this amendment was prepared is somewhat better drafted in other respects. That is the reason I prepared it for you. It was just an easier job to do.

The CHAIRMAN. Well, it seems to me that if you will look at the second paragraph of Section 4 of H. R. 389, which deals with the authority given to the Secretary of Commerce to make the changes in the standards as affected in this law, that it could be made to that particular section.

Mr. PERLEY. It could be.

The CHAIRMAN. In other words, authority is given to the Secretary of Commerce. The Secretary of Commerce is authorized and directed to establish these methods, powers and standards.

Now, it was at that point where the witness yesterday indicated that the amendment which had been made on page 17 should have been inserted in this particular bill, but we are eliminating that authority, for the purpose of this discussion, and asking where the suggestion made by Mr. Hinshaw yesterday that it was not to be effective for

1 year, could be made available to that bill and, would it not be at that point in the bill, after (reading from the bill)

no such test method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless, in his opinion, such test, method, procedure or standard are adequate for the protection of the public interest.

Then add—

any such revision or amendment shall be made by an order which shall be published in the Federal Register. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the expiration of 1 year after the date on which it is so published unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall set forth in the order his findings as to such emergency conditions.

Would it not very properly come in that section that I have just read?

Mr. PERLEY. That is where it would go, possibly not written exactly in that way. There would have to be some modification.

The CHAIRMAN. You might have to brush it up.

Mr. PERLEY. It is a matter of difference in drafting.

The CHAIRMAN. As to that feature of it. But I am speaking of that subject matter.

What I think we are anxious to find out is whether an amendment of that type would probably dissipate the fear that the industry has expressed as to the action of the Secretary of Commerce under general authority if that kind of authority is given to him.

Mr. HINSHAW. The chairman has read that the language—

any such revision or amendment shall be made by an order which shall be published in the Federal Register. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the expiration of 1 year after the date on which it is so published unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall set forth in the order his findings as to such emergency conditions.

Now that certainly ought to relieve your mind as to any arbitrary action that could be taken by the Secretary, or might be taken by the Secretary. That means that it would not take effect until one year after the date on which it was published, unless an emergency is declared and then it would have to set forth the emergency that existed.

I think it was Mr. Buck who mentioned the emergency condition that might exist.

Do you see any objection to that sort of language in place of the language that has been adopted or been put into the bill?

Mr. DORN. Mr. Chairman, our counsel is here, and I would prefer that he would answer that question rather than me, as he is a technical man. You may call upon Mr. Rovins, who is right here. He can give you the opinion of the Association.

Mr. HINSHAW. Will you stand by the opinion of your counsel in that matter?

Mr. DORN. Yes, sir.

Mr. HINSHAW. All right.

The CHAIRMAN. You indicated that you would?

Mr. DORN. I did; yes, sir.

STATEMENT OF LEONARD ROVINS, GENERAL COUNSEL, NATIONAL
RETAIL DRY GOODS ASSOCIATION, 100 WEST 31ST STREET,
NEW YORK 1, N. Y.

Mr. ROVINS. Mr. Chairman, my name is Leonard Rovins. I am general counsel for the National Retail Dry Goods Association.

Mr. Chairman, thank you for the opportunity to answer this particular question.

On the surface that particular proposal would seem to have a considerable degree of merit. However, the purpose for which that proposal was offered yesterday by Mr. Hinshaw, as I recollect, involved the question as to whether industry or the Secretary should go before the Congress to get a change in the particular standard. That in turn has a great deal to do with why Section 4 was rewritten following the action in the Senate last year.

If I may take a moment, I would like to go back and discuss that, because I think the Chairman was very much concerned about that in the inquiries directed to the witness yesterday and it also involved questions of constitutionality, and if I may be permitted, I think I can develop that whole area and perhaps clarify some of the things that have been submitted to the Committee.

When S. 2918 was first introduced in the Senate it did not have a guaranty clause in it.

The CHAIRMAN. What do you mean by "guaranty"?

Mr. ROVINS. Guaranty clause.

The CHAIRMAN. Will you read the words which constitute the guaranty clause?

Mr. ROVINS. Under "Guaranty", Section 8 (a).

The CHAIRMAN. Do you wish to be excused, Mr. Dorn?

Mr. DORN. Yes, if I may, and let counsel answer the questions.

The CHAIRMAN. We will excuse you for the time being. There may be an occasion to recall you after your counsel has finished his explanation.

Mr. DORN. Thank you.

Mr. ROVINS. Section 8 (a) of S. 2918, as it passed, as it was reported out by the Senate Committee and acted upon by the Senate, provides that no person shall be guilty under Section 3 if he establishes a guaranty received in good faith from a vendor to the effect that the particular goods that he has purchased are free from any of the dangers inherent in the standards for flammability. That is the guaranty language.

The CHAIRMAN. Will you give the page and line?

Mr. ROVINS. Yes, page 17, S. 2918 as reported out, on lines 8 and 9.

The CHAIRMAN. Now, is the same provision in the bills introduced in the House at this session?

Mr. ROVINS. In two of them.

The CHAIRMAN. What two?

Mr. ROVINS. In the Chairman's bill and in 398 as originally introduced by Mr. Canfield.

The CHAIRMAN. 389?

Mr. ROVINS. 389, I am sorry. The revised bills which were introduced certainly did not have that identical language and that area, as well as Section 4; the two areas seem to be involved in the discussion.

Now, S. 2918 as originally introduced does not have this guaranty clause at all; no guaranty whatsoever.

The retailers made a very strong representation that with respect to this kind of goods, involving the question of flammability, it was utterly impossible for the retailers, or anyone in the chain of distribution, to determine the flammability without testing each and every garment or each and every piece of fabric which he received, and if he were to test all of those things, he would have no merchandise to sell, because he could not take the representative piece of fabric out of a suit or a pair of trousers, or a piece of underwear, or a shirt, and test it, and still have that shirt to sell. So, that was offered to the committee and it was stated that it was necessary to have that guaranty to protect the ultimate—not the ultimate consumer—but also the retailer in his disposing of these goods, and apparently the Senate found great merit in it and they suggested that the Federal Trade Commission, as I recall, and the Department of Commerce and the industry get together and see whether or not a guaranty could be developed.

Well, the most available guaranty was the one, was the guaranty contained in the Wool Act and in the Fur Act, already under the administrative jurisdiction of the Federal Trade Commission, and that was offered and was accepted by the committee, or reported out.

Subsequent to passage of the bill in the Senate and the attempt to get enactment in the House, the question was raised as to whether that particular guaranty had the same merit in this kind of a bill as it does in the Fur Act or the Wool Act.

The CHAIRMAN. Who raised that question?

Mr. ROVINS. Industry did, the manufacturers.

The CHAIRMAN. The people who had suggested the guaranty?

Mr. ROVINS. Not necessarily, sir. There was one segment of the industry, the manufacturing segment of the industry, who may or may not have participated. I do not recall. But they raised a very valid point, and if I may have a moment, I think I can develop that.

The CHAIRMAN. My question was occasioned because of the statement that you made that the industry had suggested a guaranty.

Mr. ROVINS. I see your point. I was probably using the term in too broad a sense. I do recall that there were several industry representatives who met, or representatives from the Federal Trade Commission—whether this segment was represented I do not now recall—but the validity of their argument is simply this, that it is utterly impossible to guarantee for purposes of this act every piece of fabric that comes off a roll. They can no more test each piece of fabric in the yardage than the retailer can test each garment, without in turn ruining the possibility of selling the goods.

So, they suggested that since it was impossible to test all this, we must take a reasonable approach.

Under the Fur Act and under the Wool Act, it is more or less true, and more probably true, that the content of the yardage is fairly uniform, if not uniform all of the way through; but insofar as flammability is concerned, as Mr. Dorn indicated a few moments ago, temperature conditions, the conditions under which the piece of fabric was woven even, or development may vary so that when it is tested in the tester it may show a different result than another

piece out of the same roll. So uniformity is not as scientifically true for the purposes of this bill as it is for the others.

So that it was suggested that instead of having that kind of a guaranty—the only purpose of the guaranty is not to protect the ultimate consumer—the ultimate consumer has no interest in the guaranty clause as such—but it is the chain of distribution that has the concern about the guaranty, and finally the retailer who has no means of testing, and it was acceptable to the retailers, that the guaranty be notified so that all that the retailer was interested in was assurance from the manufacturers that he had submitted these particular fabrics to reasonably representative tests, and that as a result of those reasonably representative tests he could say that this fabric would meet the requirements of the law.

Now, we retailers—my retailers—felt that this was perfectly satisfactory, and perfectly reasonable, because the guaranty still kept the onus of responsibility in case the law was violated on the person upon whom it rightfully belonged, namely, the manufacturers, and if the manufacturers attempted to distribute in commerce goods that does not meet the requirement of the law, then the full impact must rest upon their shoulders, and the sole purpose of the guaranty is to protect the legitimate retailers who could not provide the facilities for testing these garments.

The CHAIRMAN. Will you give us a reference to the word “reasonable” that you have in mind?

Mr. ROVINS. They are contained in the revised bill, and with your permission I will refer to it.

Mr. HALE. When you say revised, what bill?

Mr. ROVINS. H. R. 3851, H. R. 4159, and H. R. 4500; on page 10. I am referring to 4159, page 10, line 3, “guaranty.” It is section 8. [Reading:]

SEC. 8. The penalties provided for a violation of section 3 of this Act shall not apply to any person who establishes a guaranty received in good faith.

So that that eliminates collusion between the retailers, the wholesalers, the manufacturers.

signed by and containing the name and address of the person residing in the United States by whom the fabric or wearing apparel covered by the guaranty was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the specific type of fabric covered by the guaranty or used in the wearing apparel covered by the guaranty, when so tested was not highly flammable within the meaning of section 3 of this Act: Provided, That a person furnishing such a guaranty (except a person relying upon a guaranty received in good faith to furnish a guaranty to the same effect, if he, by further processing, has not affected the flammability of the fabric or wearing apparel covered by the guaranty) shall not be relieved thereby from any of the penalties prescribed for violation of section 3 of this Act.

The CHAIRMAN. At that point, are you able, as the attorney for this organization, or will it be necessary for the preceding witness, to answer this question: What do you consider a reasonable and representative test?

Mr. ROVINS. That will necessarily, under all circumstances, have to be a question of fact.

In my opinion, if you take——

The CHAIRMAN. Will you indicate—assuming that it is a question of fact, there must be something definite in your mind or in the mind

of the industry when they speak of reasonable examination. Now, could somebody enlighten us as to just what that means, having in mind the criticisms that have been made by the Federal Trade Commission and the Department of Commerce.

Mr. DORN. I would say, Mr. Chairman, that this law sets up that the Federal Trade Commission shall administer the act and shall make the necessary rules and regulations and I should think in those rules and regulations that it would be the one to determine the reasonable test or the reasonable number of samples.

The CHAIRMAN. Well, now, you have not answered it. From your standpoint, what would you consider as reasonable? You have merely said that the Federal Trade Commission can set up standards as to reasonableness. Now, what in your opinion, as one who is identified with the industry, would you consider reasonable or what would you consider unreasonable?

Mr. DORN. I would say a reasonable number of samples would be a test perhaps of every 500 yards of goods and a sample would be taken from the run at that point and processed as to flammability.

Mr. HESELTON. I notice that they use "reasonable and representative." I wonder what "reasonable and representative" refers to.

The CHAIRMAN. Yes.

Mr. DORN. That is representative of the run of goods that is being manufactured at that time, I would say.

The CHAIRMAN. Do those two words taken together or separately have any significance in your mind as representing the industry?

Mr. DORN. Not particularly.

The CHAIRMAN. That is "reasonable and representative."

Mr. DORN. "Reasonable" would be a reasonable number of samples to cover the particular run of goods. "Representative" would be representative of that particular portion of the goods.

The CHAIRMAN. How many yards are there in a bolt?

Mr. DORN. A bolt runs about 60 yards.

The CHAIRMAN. So then your idea of reasonableness would be to make an examination in about every 10 bolts?

Mr. DORN. That is right.

The CHAIRMAN. What assurance would there be that the bolts in between measured up to the standard?

Mr. DORN. If they are being run on a uniform setting of machines; being run in a like manner; there is every reason to believe the bolts in between would be identical with the ones tested.

The CHAIRMAN. I do not want to be too technical about this. I am trying to see light. I have in mind the manufacture of medicine that requires certain component parts, and I have known of instances where they were manufactured in mass that some of the medicine went out with not a proper distribution of the formula, so that the individual bottle of medicine in that case did not comply with the requirements.

Now, how can you guarantee against that same situation in reference to goods by making a spot check, so to speak, on every 500 yards?

Mr. DORN. I do not think you can draw an analogy there between a chemical process, which is the actual blending or causing chemical reaction among certain drugs, to a fabric which is woven at a uniform rate on looms or machines all set to produce a uniform piece of goods. Obviously you cannot test every yard of goods that goes out.

I would believe that a sample from every 10 bolts would be ample to assure a fairly uniform product.

The CHAIRMAN. What is the usual practice with respect to the number of yards that are run at one time on a machine?

Mr. DORN. That would be very difficult to answer because it would depend almost entirely on the order that the manufacturer has for the goods. In some finishing plants they run in lots as small as 500 yards. In others there may be 500,000 yards at one time.

The CHAIRMAN. I do not want to pursue this any further at the moment. I would like to get the thought as definite as possible in the minds of the committee as to what "reasonable and representative" means from the standpoint of the protection of the purchasing public, who must be interested.

Mr. ROVINS. Mr. Chairman, as I said before, the guaranty has nothing in it so far as protecting the public is concerned because the onus will still rest on whomever is selling the goods insofar as civil liability is concerned.

The CHAIRMAN. Let us discuss that for a minute. You say that—

Mr. ROVINS (interposing). I am talking about the guaranty, sir.

The CHAIRMAN. Do you mean to say that the purchasing public, in the event of damage resulting from material that does not conform with the standards, would not have any right of action?

Mr. ROVINS. No, sir.

The CHAIRMAN. Against the manufacturer.

Mr. ROVINS. Yes; they would have definitely; but I think that, if I may, what I meant was simply this: If the manufacturer has to give a guaranty, he is certainly going to be very, very careful as to the extent of that guaranty and how he makes his tests.

This law is intended to outlaw from commerce any of these dangerous fabrics which do not meet the testing requirements set forth by the standard. We know that the legitimate manufacturers are going to make every diligent effort to comply with that law. The fly-by-nights, as against whom it is directed, No. 1, are not going to make tests. No. 2, they are not going to give guaranties; and the result is that the retailer is not going to purchase these kinds of goods unless he gets the guaranty.

Now, there is a phrase in this guaranty which says "received in good faith."

Your retailers are going to examine that very carefully; and, if I am purchasing goods and you are a manufacturer, I will say to you, "How many tests did you make on this run of yardage?" Let us say that you ran 500,000 yards. And you tell me that you made five tests.

You have got a question of good faith there, and I as a retailer will question that very seriously.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. The question I think is on the proposed amendment to the bill, and that we have gone far afield.

Mr. ROVINS. I will be glad to come back.

The CHAIRMAN. I think that I am partially to blame for that because of the questions that I asked that have led him away. It was due to the fact that he was making an effort, I think, to answer your question in this committee that occasioned the question to be asked,

but in view of the time that is available to us it would be helpful if you can discuss that.

Mr. ROVINS. All right; I will come directly to it.

The CHAIRMAN. The amendment suggested by Mr. Hinshaw.

Mr. ROVINS. Section 4 as it passed the Senate in S. 2918, and subsequently incorporated in the chairman's bill, H. R. 2768, were fairly uniform with two exceptions: No. 1, the confusion which resulted on the floor of the Senate with respect to the phrase under the presently existing procedures and, No. 2, the chairman's bill took cognizance of the fact that the recommended standard at that particular time had now become a promulgated standard.

I must conscientiously admit that there was a question of constitutionality in our minds with respect to the delegation of authority to the Secretary of Commerce with the limitation that he must conform with the procedures presently existing for the adoption of commercial standards. That question in my mind is now completely eliminated, predicated, No. 1, on the memorandum of law which was introduced yesterday and my subsequent studies last night on that subject; and I am absolutely convinced at this point that the delegation of authority to the Secretary of Commerce, with the limitations under the presently existing procedures, are perfectly constitutional under the *Currin v. Wallace* case, decided in 1939.

Currin v. Wallace, decided in 1939, took every one of the cases which were mentioned in that memorandum of law, distinguished completely the kind of thing that existed in the Tobacco Inspection Act, which is most comparable to what we have now.

The CHAIRMAN. Will you give the correct citation of the case?

Mr. ROVINS. *Currin v. Wallace* (306 U. S. 1).

However, after the passage of S. 2918 that question of constitutionality still existed, and after the promulgation of standards, after the standards became a fact on the part of the action of the Secretary of Commerce, it was thought that probably the best approach to section 4 would be, No. 1, to set up the standard as a standard adopted by the Congress and enacted into law by the Congress.

With that there could be no question of constitutionality. However, insofar as modifying this standard in the case of an emergency or in the case of subsequent scientific development, of any constitutionality question which might affect the law, then it would best be to set up that provision in subdivisions of section 4 (b), so that if 4 (b) were declared unconstitutional the law would still stand with the commercial standard that was enacted into legislation by the Congress itself.

Under the section 4 as it exists in the old S. 2918 and subsequently introduced in the House, if that question of constitutionality affected section 4, then in effect you would have no law whatsoever. And that was the basic reason why section 4 was developed into a section 4 (a) and section 4 (b), to soften the blow of constitutionality.

Now, with respect to *Currin v. Wallace*, as I understand the memorandum of law submitted by the Department of Commerce and the Federal Trade Commission, that memorandum of law does not say that the attorneys who wrote it believe, without doubt, that this particular provision of law is unconstitutional. They said that it may be questioned on the basis of certain citations.

Well, those certain citations go back to 1935—I think is the latest citation—and there is one earlier than that, 1912.

Currin v. Wallace was decided on January 30, 1939. It involved the Tobacco Inspection Act of 1935, which authorized the Secretary of Agriculture to establish standards of tobacco and designate those auction markets where tobacco was bought and sold, moving in interstate and foreign commerce, and provides under penalty that at a market so designated no tobacco shall be offered for sale at auction until it has been inspected and certified by an authorized representative of the Secretary according to such standards.

Mr. HINSHAW. Provides what?

Mr. ROVINS. Provides, under penalty, that a market so designated no tobacco shall be offered for sale at auction until it has been inspected and certified by an authorized representative of the Secretary according to such standards. He—the Secretary of Agriculture—cannot designate the market unless two-thirds of the growers voting at a prescribed referendum favor it.

Now there you have a delegation of what amounts to a veto power over the Secretary of Agriculture, and Chief Justice Hughes in writing that decision made a great contribution to this particular subject. He said, in an action to have the law declared unconstitutional:

The argument that there is an unconstitutional delegation of legislative power is equally untenable. This is not a case where Congress has attempted to abdicate, or to transfer to others, the essential legislative functions with which it is vested by the Constitution.

And he refers to Panama Refining Company versus Ryan, which is one of the cases cited in this memorandum of law.

We have always recognized that legislation must often be adapted to conditions involving details with which it is impracticable for the legislature to deal directly.

And further citing the Panama case he said——

The CHAIRMAN. I do not think there is any dispute as to that.

Mr. ROVINS. I feel that this memorandum of law should be answered in all of its ramifications, because it has been made a part of the record, and I felt that possibly some of the members of the committee were interested in some of the constitutional aspects of it.

(After informal discussion among the members of the committee:)

The CHAIRMAN. This was a discussion of the members of the committee not intended for your ears.

Mr. ROVINS. I did not hear it, sir.

Now, to answer the question that was originally raised by Mr. Hinshaw as to this proposed amendment.

No. 1, we think that it—I am very leery about quoting the numbers of bills, without checking them, sir.

We feel that the language of 3851, 4159, and 4500 is valid and constitutional and serves a very important contribution in this field.

We feel very strongly that this legislation is absolutely essential. We feel that if no legislation comes out of the Congress this year, we may well have some 248 different types of legislation which will have the effect of legislating the textile industry into a chaotic condition if not out of existence completely.

We have been trying for 5 or 6 years now to get legislation on this subject of flammability.

The CHAIRMAN. Will you repeat that?

Mr. ROVINS. We have been trying for 5 years to get legislation on this particular subject. If this act is passed, with the proposed amendment as submitted, we are confronted with a situation where the Secretary of Commerce comes out with a fiat which cannot take effect for 1 year. During the year industry affected, parts of the industry, and maybe the consumers, will have to come before the Congress in an attempt to get legislative correction. We can well picture times when it will be utterly impossible, because of more pressing circumstances, for the Congress to act on these particular things, and we feel that rather than subscribe to or support something like that, we think that under any circumstance, the bill should come out setting for the standard, and then if any changes whatsoever are needed, leave it to Congress to make the change.

Mr. DOLLIVER. Leave it to what?

Mr. ROVINS. To the Congress to make the change.

Mr. HALE. That is what the amendment proposes.

Mr. ROVINS. It permits the Secretary of Commerce to develop a change in the standard or a new standard, if he will, but the standard cannot take effect for 1 year. If the Congress does not act during that 1 year, then in effect the Secretary of Commerce has made a very vital change in a piece of legislation.

Mr. HINSHAW. Of course, the only reason that it was proposed to be placed in there, that matter of 1 year, was because of the statement on behalf of the industry, or some segment of the industry, that it would require 1 year in which to change its stocks, and completely rid its shelves of the particular items. Otherwise, there is no reason for the 1-year provision.

Mr. ROVINS. But, if I may, that was tossed rather as a surprise at the witness yesterday, and I have not discussed this with that particular witness, but I have asked my people about it instead, and the feeling is that it eliminates completely any voice in the development of changes in standards or development of new standards where they rightfully belong, from the people who are primarily responsible for the development of this particular standard which is perfectly satisfactory.

Mr. HINSHAW. There is another group that is vitally concerned, and that is the consumers.

Mr. ROVINS. And that is where the Secretary of Commerce comes in. He is representing the consumers interests.

Mr. HINSHAW. That is exactly it.

Mr. ROVINS. And we feel that we are representing the consumers' interests, if for no other than a selfish reason, and when we sell flammable goods we are involved in a very costly damage suit, and that is why the retailers have spearheaded this kind of legislation for 7 or 8 years now.

The CHAIRMAN. You say spearheaded this legislation?

Mr. ROVINS. Pushed for this kind of legislation; very definitely, sir.

Mr. DOLLIVER. Will the gentleman yield?

Mr. HINSHAW. Yes.

Mr. DOLLIVER. The thing that puzzles me about your discussion here, sir, is this, that a previous witness testified, under my questioning, that there were certain standards and a machine set up to verify those standards.

Now, I find it difficult to visualize why those standards should change. If you set up a standard of flammability which is satisfactory, 2 years from now it is going to burn at the same rate, if you are scientifically correct, and I just cannot follow the necessity of changing the standards.

Mr. ROVINS. We have the development, I understand, of new fabrics all the time. We have no idea of what degree of flammability will surround those fabrics, new fabrics that are coming forward.

Mr. DOLLIVER. The standard that he mentioned a moment ago of, if a flame was ignited in a second and burned within 4 seconds, I understood him to say that that standard is now accepted by the industry.

Now, if you bring out a new fabric which does not meet those standards, why do you need to have a change or a diversification of the standards all of the time? To me that means a sort of a sinister thing here in the background that through dealing with the Secretary of Commerce you are going to lower the standards again, and we will have the whole problem with us again.

It seems to me that the legislation should set up a standard which is acceptable to the industry and which is acceptable to the consumer, and there it should be.

Mr. ROVINS. I personally subscribe to that, sir.

Mr. DOLLIVER. Then, why all of this talk about submitting changes to the Secretary of Commerce and all that kind of thing?

Mr. PRIEST. Will the gentleman yield?

Mr. DOLLIVER. If I have the floor, Mr. Chairman, I will gladly yield to the gentleman.

Mr. PRIEST. All of the bills, it seems to me, bring the question before the committee, because without any amendment to section 4, it gives authority to the Secretary of Commerce to revise the standards, to modify, promulgate any new rules and regulations on the basis of new standards. My personal position is I think somewhat the same as that of the gentleman from Iowa (Mr. Dolliver). It seems to me, without section 4, without delegating any authority to anybody, that we should legislate; we should write legislation that has been agreed to, and let it go at that, and that with no other authority delegated, that we probably are reasonably safe, and if a question comes up in the future involving or requiring a change in that statutory standard, Congress could take the question up when it comes up. With that, I think that we are perhaps getting hot and bothered over the delegation of authority and on the procedures under which that authority shall be exercised.

Personally, I feel very much as the gentleman does, that a standard already agreed to and authorized by act of this Congress is about what we need at the present time, without delegating authority to modify to anybody.

The CHAIRMAN. Well, at this point, the absence of Mr. Hinshaw, I presume, puts the floor back in the possession of the Chair. I stated a proposition to the witness and asked his opinion with respect to it. In other words, before reference to the Secretary of Commerce was eliminated by the bill and the bill merely adopted as a standard of flammability, that is, the way that it has been agreed upon, would that be satisfactory?

Now, I did not get his definite answer, as you did yesterday, and I would like, and I think a number of the members of the committee

would like to have and would be interested in knowing what your attitude is.

Mr. ROVINS. The technicians now say that this is no question for a lawyer. May I defer that to Mr. Dorn?

Mr. DORN. I would like to point out, before I say anything about the standards or development of them, that if it had not been for industry you would not have this standard today. Seven years ago when we started on this flammability subject, there was no standard or no test method in existence. Industry took the bull by the horns and developed one for the protection of the consumer.

Now, all standards are constantly in a state of flux. New ways are found out to do the job better, and as an example, the committee on wash fastness—fastness of color, the American Association of Chemists and Colorists has been working for 20 years on that, and every so often bring up a new method that does a better job than the method they had before. And that is the reason we are anxious to see some method set up so that if better methods of testing are developed—not as to the lowering of standards, but better methods of testing are developed, that they can be brought into effect under this law.

Mr. DOLLIVER. Mr. Chairman, may I make inquiry of Mr. Dorn?

The CHAIRMAN. Mr. Dolliver.

Mr. DOLLIVER. Why could that not be brought right back to the Congress if new methods are developed? Is there any reason why that could not be done?

Mr. DORN. It could be done that way. I do not care how it is done, but there must be some way that if industry does develop a new method that is better, that tells a more accurate story, for the protection of the consumer, there must be a way to get that into the law; to function under the law.

Mr. DOLLIVER. My thought is merely this, instead of setting up an apparatus that may not be satisfactory to the industry or the consumer or the Congress either, why not just establish in this law a standard that you have already established which is acceptable to the consuming public and to the retailers and the wholesalers and manufacturers, and put that in the law now and then if in 2 years or 5 years or 10 years hence the industry finds something better they could come back to Congress and come back to this committee, and say, "Here, this is better, and we think this should be put into the law," and we can take similar action to what we are taking now. Do you see any objection to that?

Mr. DORN. The only possible objection would be perhaps the procedure that it would have to go through; hearings, the passage by Congress, the signing by the President, to get that into the law, where if you wrote the method into the law now, that would not have to be gone through with.

Mr. DOLLIVER. Of course, my answer to that is that the legislative process, while it may be a slow one—and I do not mean to argue with you. I am just expressing my views. The legislative process, while it may be a slow one and may be a little cumbersome, that in a sense is an advantage, because it gives public hearings, such as we are having here on this subject today. The consuming public, by the way, has a vital and vigorous interest in this matter, and while if

there is some change to be made, it ought to be brought out in the open, it seems to me, by public hearings, rather than go down to the departments.

I am just expressing my opinion.

Mr. DORN. I would rather Mr. Rovins would speak on that.

The CHAIRMAN. Before we get into that, may I just for the purpose of the record say this. What I think the gentleman from Iowa (Mr. Dolliver) has in mind, and what I had in mind when I offered the suggestion yesterday, for reply, was not because I was definitely committed to it, for I am not satisfied as yet that you cannot trust the Secretary of Commerce. The one we had during the past administration, I had the utmost confidence in, Mr. Sawyer.

Mr. DORN. I do not mean to imply that you cannot trust the Secretary.

The CHAIRMAN. I know that you don't. I have the same confidence in the present Secretary of Commerce.

So for that reason I am not prepared to run away from it, although, as I suggested yesterday, this is thought for discussion.

Now, if it were carried out, here is what in effect it would be. This is subject to review by legislative counsel. [Reading:]

SEC. 4. Any article of wearing apparel or fabric shall be deemed so highly flammable within the meaning of section 3 of this act as to be dangerous when worn by individuals if any uncovered or exposed part of such article of wearing apparel or fabric exhibits rapid and intense burning when tested under the conditions set forth in commercial standards CS 191-53, "Flammability of clothing textiles," promulgated by the Secretary of Commerce December 30, 1952, effective date January 30, 1953.

Now, could there be any objection to that provision in the bill?

Mr. DORN. Could I refer that to counsel?

Mr. ROVINS. In a general way, no, sir; not at all. That would be perfectly satisfactory to us, as retailers.

The CHAIRMAN. May I ask if that does not take care of the thought that he has in mind?

Mr. DOLLIVER. Yes, I think it does.

The CHAIRMAN. Subject to any revision that may have to be given to it if we should adopt it, by the legislative counsel. I am not saying that it should or should not be adopted. I merely bring it up now for the purpose of exploration and asking what the attitude would be toward that type of a provision in the bill.

Mr. HALE. Mr. Chairman, does not that in effect leave section 4 (a) in and strike 4 (b) out?

Mr. ROVINS. Yes, sir.

The CHAIRMAN. I do not have a copy of that bill before me. What number is that? What page is it?

Mr. HALE. Page 5. It would seem to me it would.

The CHAIRMAN. Leave 4 (b) out. I think it would come very close to it.

Mr. ROVINS. That is perfectly satisfactory to the National Retail Dry Goods Association.

The CHAIRMAN. Now, before we go any further. Suppose that were a provision in the bill, is there anyone who is present who objects to that, and who cares to give their reasons. If so, please rise and say so.

STATEMENT OF GEORGE S. BUCK, JR., TECHNICAL DIRECTOR,
NATIONAL COTTON COUNCIL OF AMERICA, MEMPHIS, TENN.—
Resumed

Mr. BUCK. Mr. Chairman.

The CHAIRMAN. What is your name, please?

Mr. BUCK. George Buck, representing the National Cotton Council of America.

The CHAIRMAN. Representing the National Cotton Council of America?

Mr. BUCK. Yes, sir, Mr. Chairman.

The CHAIRMAN. You are the gentleman who testified yesterday?

Mr. BUCK. Yes, sir.

The CHAIRMAN. And you are opposed to that, are you?

Mr. BUCK. Yes. May I say that there are degrees of preference as to what we believe would be the most suitable procedures.

I think that that would be preferable to delegating to any official broad powers to establish the entire standards. In other words, it has not seemed to me that——

The CHAIRMAN. Will you restate that?

Mr. BUCK. I say it is preferable to that, but now the deletion of section (b) of 4, section 4 (b), does not do that. It fixes the standard as in 4 (a).

As one familiar with the testing methods, and with the knowledge of the shortcomings and a knowledge of what is being done now to improve it, to make it more useful, I cannot subscribe to any method which fixes it so firmly and leaves it so that it is necessary for the Congress to review these rather minor changes, which we believe we can see in the future.

The CHAIRMAN. Then, you are back to the point that you argued yesterday that you favor 65 percent of the industry determining what the standards shall be.

Mr. BUCK. The point, Mr. Chairman——

The CHAIRMAN. Is that where you stand? Is that what you favor?

Mr. BUCK. I favor flexibility. Yes, sir; if you like, if that is constitutional, and counsel for the National Retail Dry Goods Association has indicated that he believes it is. If that is constitutional, I think that that is the best solution.

The CHAIRMAN. All right. Then your basic thought is that instead of Congress legislating, or instead of the Secretary of Commerce being given authority to fix rules and regulations, that there should be no standard set until it had first been submitted under the voluntary procedures in the Secretary of Commerce Office, to the entire industry and approved by 65 percent.

Mr. BUCK. With this exception, that it already has been so done and has been incorporated in section 4 (a).

The CHAIRMAN. Now, don't evade. Can you not answer my question yes or no? I would think that you could. I tried to put it in a form that you could.

Mr. BUCK. I think if I answer that yes or no, sir, I would avoid stating the facts that the standard has been set by Congress in 4 (a).

The CHAIRMAN. All right. Then you object to that being put in the law.

Mr. BUCK. No, sir.

The CHAIRMAN. Well, that is what we are talking about.

Mr. BUCK. I am referring to the change.

The CHAIRMAN. I am not talking about changes. We are asking now whether a provision that would, in which Congress would adopt the present standard of flammability would be sufficient in your mind without any further reference to the Secretary of Commerce with authority to change.

Mr. BUCK. That question, I believe, sir, is to the effect would section 4 (a), in our opinion, be sufficient for the purposes of the act.

The CHAIRMAN. That is practically it.

Mr. BUCK. My answer is that it would be sufficient, but less desirable than 4 (a) with 4 (b), in our opinion.

Mr. DOLLIVER. Will the gentleman yield?

The CHAIRMAN. Mr. Dolliver.

Mr. DOLLIVER. I would like to inquire a little more about these standards and methods of determining them.

I was quite interested in what Mr. Dorn said along that line and you have now indicated that there is some imperfection about the method of testing at the present time.

Will you develop that idea a little further? You think that it is not adequate? You say that something else may come along in a few months or a few years.

Mr. BUCK. I would be very glad to give you the background, sir.

First I should say that this method is the best method available anywhere in the world today for measuring flammability of textiles, and immediately after that I will say that it is not perfect. It was developed first under a committee of the American Association of Textile Chemists and Colorists, and later in cooperation with two committees of the National Bureau of Standards.

That committee of the American Association of Textile Chemists and Colorists is reactivated now, to study improvements in the methods.

A committee of the National Fire Protection Association, of which I am also a member, is studying the improvement of the testing method in collaboration with the fire marshal of the State of California.

One of the reasons is this: When you use the testing method in many different mills, in many different laboratories, you do not come up with the same result in each one.

Mr. DOLLIVER. What?

Mr. BUCK. I say, when many mills use the same testing instrument, they will not arrive at the same results in a given fabric, obviously. If the manufacturer determines that it burns in five seconds and the retailer finds that it burns in three seconds, we immediately have difficulty.

Now, this method does not give perfect uniformity in laboratory tests now. On certain fabrics, especially where there is unevenness and roughness, there are these disagreements which have been a major source of concern.

Now, in California, the fire marshal, for his operations, had an instrument differing somewhat from this. He had one at Los Angeles and one at Sacramento. He could not get agreement at Sacramento with Los Angeles. So, he stopped using two and just uses one. We cannot operate that way in the whole textile field. We have to use

many instruments, and as we proceed to improve this thing we may change a rack, or add a different kind of a bar, or use a different baffle, or make these very minor changes, and I think if we came back to you gentlemen and said we had substituted a .05 bar for a .03 bar, that you might regard it as a somewhat inconsequential matter in the light of the very important duties that you have.

Now, this mechanism as you see it in section 4 (b) leaves in effect everything that you suggest by having 4 (a) in and allows no change unless the Secretary of Commerce approves it in the public interest and unless the industry finds it workable.

Now, if that provision is constitutional—and it is suggested that it is—I submit that it is our opinion that it is the best solution.

MR. DOLLIVER. Well, my rejoinder—I seem to be doing a lot of arguing with the witness—my rejoinder to that is that any small variation of that kind probably could be brought within the rules and regulation already set up. That is a technical matter, of course, of draftsmanship, which it seems to me could be taken care of without the machinery and necessity of getting an executive order every time there is a change in the link or size of a bar, as you have described it.

MR. PRIEST. Will the gentleman yield?

MR. DOLLIVER. Yes

MR. PRIEST. In connection with what Mr. Buck is referring to, a small technicality, such as a change in the length or diameter of a bar, that applies to the testing machine itself; to the laboratory apparatus.

Would that necessarily have anything to do with the rate of the flame?

MR. BUCK. Yes, sir.

MR. PRIEST. That is, these technical changes?

MR. BUCK. Yes, sir. You can make a very minor change in any one of a number of parts of the instrument and you can make the fabric burn 2 or 3 seconds faster or 2 to 3 seconds slower.

MR. PRIEST. And so the standards then that have been issued, and this commercial standard CS 191-53, that standard might be materially changed by some improvement, let us say, or change at least in the testing machines themselves?

MR. BUCK. That is correct, Mr. Priest.

MR. PRIEST. That is all. Thank you, Mr. Dolliver.

MR. HESELTON. Will the gentleman yield?

MR. DOLLIVER. If I have the floor, I will be glad to yield to Mr. Heselton, Mr. Chairman.

THE CHAIRMAN. Mr. Haselton.

MR. HESELTON. I have glanced hurriedly at this *Curriu v. Wallace* opinion. I notice that there are two sentences, containing certain language, on page 15, which seem to me to raise the question of whether *Curriu v. Wallace* is authority for the constitutionality of this particular part of the law. I would like to read this part. [Reading:]

So far as growers of tobacco are concerned, the required referendum does not involve any delegation of legislative authority. Congress has merely placed a restriction upon its own regulation by withholding its operation as to a given market "unless two-thirds of the growers voting favor it." Similar conditions are frequently found in police regulations (*Cusack Co. v. Chicago*, 242 U. S. 526, 530).

Then this, which I think is rather significant. [Reading:]

This is not a case where a group of producers may make the law and force it upon a minority. (See *Carter v. Carter Coal Co.*, 298 U. S. 238, 310, 318.)

I notice further language further down on page 16:

Nor is there an unconstitutional delegation to the Secretary of Agriculture. Congress has set forth its policy for the establishment of standards for tobacco according to type, grade, size, condition, and other determinable characteristics.

In other words, it seems to me to be on the surface a very real question as to whether the case would support that particular point of constitutionality and I would suggest before leaving that, Mr. Chairman, that the language in the opinion of this particular point, which seems to be limited to pages 15, 16, 17, and a part of page 18, might be helpful and that it be incorporated in the hearings so that the legislative counsel can examine it further and so that we may have it.

The CHAIRMAN. You do not mean that a portion of the decision should be made a part of our record, do you?

I do not feel that that would be a proper thing to do, to take out a portion of it.

Mr. HESELTON. You mean, that the whole decision should be incorporated?

The CHAIRMAN. Not unless you would insist upon it.

Mr. HESELTON. I am trying to save space, because the rest of it deals with other phases of the matter and not the constitutionality.

The CHAIRMAN. It is the intention to hear the General Counsel of the Federal Trade Commission and also of the Department of Commerce on this question and it may be appropriate at that time, in connection with their remarks, to do what you are now suggesting. Suppose we hold it until that time.

Mr. HESELTON. I will be glad to do that. But, I would like to have counsel here now express his opinion as to that portion of the decision which I have just read.

Mr. ROVINS. I had intended to read all of that, Mr. Heselton, and if I may, I would like to answer.

In the Tobacco Inspection Act you have the delegation of authority to an administrative officer. That delegation of authority is limited by the right of the growers who are directly affected to decide by a referendum whether they are going to go along with that or not.

So, in effect, you have a delegation not of legislative power, but a delegation of veto, in effect, which was what was mentioned by Mr. Heselton yesterday with respect to the standard for flammability.

Now, under the proposed setup wherein section 4 (b) you would give the Secretary of Commerce authority to modify, amend, or develop new commercial standards, you have quite a similar thing. You have a delegation of authority to the Secretary of Commerce. That delegation is curbed in turn by the procedures under which the standard itself, which is made a part of the law—that delegation of authority is covered by those several conditions, namely, the approval of 65 percent of the vote of the industry.

Mr. HESELTON. May I interrupt you there?

Mr. ROVINS. Yes.

Mr. HESELTON. I think it is quite a different situation where the growers have the right to veto an item; the designation of a market, in contrast to the provisions of this bill where the people who hold the veto power, it seems to me, are exercising a right of approval or disapproval over a standard. In other words, it seems to me there is

quite a difference between the establishment of a standard and the designation of a tobacco market.

Mr. ROVINS. Well, if you check the Agricultural Adjustment Act you will find that there is a similar referendum with respect to quotas. Is that any different?

Mr. HESELTON. With respect to what?

Mr. ROVINS. Quotas. Is that any different from what you have under the commercial standard?

Mr. HESELTON. Well, I am not sure.

Mr. ROVINS. As I say, I was going to go into it if I were permitted to. Here is what I wanted to point out in the Currin case. No. 1, here is the principle which we find imposed by the Supreme Court—incidentally 4 of the Justices who sat on the Supreme Court are presently on the Bench. And, the question raised is whether or not the principle in law is recognized by the Court in that veto power. In this Currin case, it is squarely on the issues with respect to that.

No. 2, the Currin case clearly eliminates all argument as far as I can see it submitted in this memorandum of law the other day, because it negates the different cases and points out the distinguishing factors in different sections of the Agricultural Adjustment Act which has been upheld by the United States Supreme Court and again has a reference with respect to quota. Now, I must admit if Congress passes or adopts section 4 (a), as well as section 4 (b), in the so-called revised bills, then they will be in effect incorporating in law those conditions which limit the Secretary of Commerce and it was certainly, I believe, intended that the Secretary of Commerce should have certain restrictions instead of a carte blanche authority to run away with the Department of Commerce standard and modifications thereof.

So, I think we find enough concept and principles in law for the very thought contained in this particular bill.

Mr. HARRIS. Will the gentleman yield?

Mr. HESELTON. Yes.

Mr. HARRIS. Regarding the authority of the Agricultural Adjustment Act, I cannot see very well how the same situation applies here, because under the Agricultural Adjustment Act the veto is given on the basis of participation in the program. If it is denied, that is, vetoed by the producers themselves, wherein they simply fail to take advantage of the provisions of the law with reference to participating in program, there is no prohibition on production against any one of the producers. It is just a question of marketing.

Now here you have got an entirely different situation, as I see it. I may be entirely wrong. That is the reason I am very much interested in it. It seems to me this situation here has more application to the issues which were developed in the NRA days.

Mr. ROVINS. Well, you have got standards in this instance.

Mr. HARRIS. Which would be more applicable than with the question of the agricultural adjustment program? The agricultural adjustment program in no way affects the producer except as to whether or not he should participate and get the benefits of the program provided by Congress. If he does not want to accept it, then he has got to go on his own. It is a question of whether he markets under it or not. He does not have to participate in the program at all.

Mr. THORNBERRY. You cannot make him come under it.

Mr. HARRIS. No. It is an entirely different problem, it seems to me.

Mr. ROVINS. The principle has been upheld; the referendum, so-called veto power over the delegation of authority to an administrative officer.

If I may, I would like to point out this with respect to the so-called standard and whether or not anybody would be injured thereby, if 65 percent of the volume of the business in the industry did not approve the change.

Now, what kind of a change could be sought? The only kind of a change that could be sought is a relaxation of the standard. In other words, section 4 fixes a standard and if the Secretary of Commerce wanted to make any kind of a drastic change such as relaxing the standards, then if 65 percent of the industry said no, do not relax the standards, in whose interest is it? In the consumers' interest, is it not? It is in the consumers' interest not to relax the standards.

So I think that is another aspect of this think that has a considerable amount of merit to it.

Mr. HESELTON. That brings me to another question I wanted ask. In looking over the list that we had here yesterday, I understood that there were some people on this committee who represented or were supported to represent the consumer. Do you have any knowledge of the set-up of the committee; who and in what official capacity they represent the consumers?

Mr. ROVINS. I would prefer to leave that to someone in the Secretary of Commerce's office who is more familiar with the development of the committee than I.

Mr. HESELTON. Let me ask you one other question. There has been frequent reference to the fact that the Congress has legislated. I want the record perfectly clear in that connection as to the facts as they appear before us.

Is there no legislation in this field as of this moment?

Mr. ROVINS. Except in the State of California; there is no Federal legislation.

Mr. HESELTON. I mean Federal legislation.

Mr. ROVINS. No, sir; no Federal legislation whatsoever on the subject of flammability.

Mr. HESELTON. Then if we carry out the thought that has been expressed, as I understand it, it would seem that if we commit ourselves to the approval of the standard that is now in existence, in the sense that it is or has been promulgated, we will of necessity be willing to accept the principle of the veto power?

Mr. ROVINS. Not necessarily, sir. If section 4 (a) and section 4 (b) are incorporated into the statute, then my answer would be "yes"; but insofar as section 4 (a) is concerned, the actual adoption of a standard, of a set of recommendations, if you will—that is all they are, as a body coming before you recommending that you enact into law this particular set of recommendations—I had a copy of the standards in front of me—but, let me say this. I can come before this body and say, "I urge and recommend that you enact into law what is contained on that paper." There is no veto power concerned with that. That is a fact. They are something that already exist. If you adopt them; if you recognize the standard as perfectly satisfactory and as serving the best interests of the public, then there is no veto power, as I see it. All

you are doing is taking something and making it into law, as if I came before you today and said, in my opinion on the basis of the studies I have made, if the tire on a car has less than 42 pounds of air per inch, it is dangerous and therefore I recommend that you outlaw that——

Mr. HESELTON. Yes, but you cannot get away from the fact, as I see it, when you present that piece of paper or these standards, you have been able to present it, because more than 65 percent of the industry has approved it.

Mr. ROVINS. But I could have come before this committee before the industry acted on these standards; before the industry approved them; before the Secretary of Commerce promulgated them. Let us say that I came here 2 years ago, before any action was taken by the Secretary of Commerce, and I said that our scientists have prepared these standards. We think that they are proper for the purpose for which they are intended, and all of industry stands behind me in supporting these standards as accomplishing an important contribution to the welfare of the public, and I say that I recommend that you enact these regulations.

Mr. HESELTON. I appreciate that, but my point is that you would not be here, as a matter of fact, unless you had had the approval of 65 percent of the industry.

Mr. ROVINS. No, sir. We were here 7 years ago urging legislation before this standard was adopted by the Secretary of Commerce. We were here 3 years ago. We were here last year, and the standard was not promulgated. I mean, 65 percent had not approved it. That was not obtained until last January and yet we have been here several years before this, urging this, or similar legislation.

Mr. HESELTON. I do not want to prolong this. I do want to get one other piece of information.

The CHAIRMAN. Will you yield to me for a minute?

Mr. HESELTON. Yes.

The CHAIRMAN. You say that you have been here for 6 or 7 years? "You," of course, referring to your industry?

Mr. ROVINS. Yes, sir.

The CHAIRMAN. Advocating the adoption of standards similar to those contained in this bill?

Mr. ROVINS. Last year it was this standard. Before that—that was before my time. When was the time before that—that was in 1945 or 1946.

Mr. Chairman, the first time we appeared urging a bill there was no standard and we were working at that time on this particular standard. We had an instrument here demonstrating it.

The CHAIRMAN. What I am trying to find out is, the statement was made, as I understood it, that you have been here for 7 years trying to get these standards adopted, and I was about to say, if that were true, that if they had been good for 7 years, let us try them for the next 7 years and see how they will work.

Mr. ROVINS. I think that the chairman walked in a little late. I was trying to answer a question of Mr. Heselton with respect to the veto power, if Congress adopts standards under section 4 (a), and nothing else.

The CHAIRMAN. I do not like the thought that is being expressed, or the inference at least, that this industry has been here knocking at

the door of Congress for legislation and that Congress has been reluctant to give it.

My experience with this matter has been that every time it comes before Congress and we think that we have got some place in the settlement of the question, then somebody rises up and objects, and that there is never any unanimity of thought on the part of the industry that comes before Congress and asks for legislation.

I am getting to the point where I have about made up my mind, that it is time for the Congress to act and let the chips fall where they may and let us get some kind of protection for the public.

Mr. ROVINS. Sir, if you will permit—

The CHAIRMAN (continuing). And then let us determine if it is a good bill, and the good intent of the industry by its attitude toward the legislation that the committee puts out.

Mr. ROVINS. You will find no objection to that, sir, on behalf of the retailers.

Mr. HESELTON. I would like to make one further inquiry. Possibly here again we will not get far.

I do not know except in a general way how you go about getting the industry's point of view or how that is worked out. It would seem to me that it would be a terrifically complex proposition, with some doubt as to whether you actually can canvas all of the segments of industry. Can you explain to me roughly how the survey is conducted?

Mr. ROVINS. I am generally informed on it, but I would again prefer that the Secretary of Commerce answer that, so that you have the complete and entire information from the agency which controls.

Mr. HESELTON. And, would that go to the point of telling us what the actual return was on that?

Mr. ROVINS. I am fairly certain that they can do that, although from conversations with people over there, I understand that there was not a single objection to the proposed standard before its promulgation, from industry.

Mr. HESELTON. That is all, Mr. Chairman.

Mr. HALE. Mr. Chairman.

The CHAIRMAN. Mr. Hale.

Mr. HALE. I do not want to belabor this point, but if this committee should report H. R. 3851 with section 4 (b) stricken, every element of delegation would vanish from the legislation; is that not correct?

Mr. ROVINS. That is correct, sir, except that the administrative procedure is vested with the Federal Trade Commission for the enforcing and for the administration and enforcement of the act.

Mr. HALE. That is not a delegation. Congress does not enforce a law anyway. All we do is to pass it. Somebody else has to enforce it.

Now, you do not really want delegation. Your only objection to section 4 (a) is that it sets up the standard devised only some 3 months ago when you conceive that better standards may be devised tomorrow or the next day; is that not right?

Mr. ROVINS. On behalf of the retailers, we will subscribe to section 4 (a) without 4 (b), although if section 4 (b) is also submitted, it introduces a degree of flexibility that the scientific boys say is particularly valuable.

Mr. HALE. To be sure, it introduces a degree of flexibility, but it introduces with the flexibility a degree of constitutional and legal doubt which is repugnant to me.

Mr. ROVINS. On behalf of the National Retail Dry Goods Association and its retail members, I will say that we will indorse a bill which incorporates only the 4 (a) element of 3851.

Mr. HALE. Now, if we leave 4 (b) out, and sometime between now and a year from now—because this bill does not take effect for a year, you will have devised some other standard which is better than the standard specified in 4 (a), we can still amend the bill. Congress sits every year. Although it is true our committee's docket is always full, I do not think that you would find that this committee would ever give a deaf ear to an industry as important as yours on a subject as important as this.

The CHAIRMAN. Are there any further questions, gentlemen? If not, that is all of your testimony?

Mr. ROVINS. Thank you very much.

The CHAIRMAN. It may be that there will be questions which will arise which we would want to submit to you as an attorney, so if it is not necessary for you to leave immediately, I would suggest that you stay around and see how this works out.

Mr. ROVINS. I shall be glad to.

The CHAIRMAN. There will be a session of the committee this afternoon at 2 o'clock. We are hopeful that we can conclude this matter today and there may be some definite suggestions made upon which your opinion would be desirable.

Mr. ROVINS. I shall be glad to remain, Mr. Chairman.

STATEMENT OF ERWIN FELDMAN, COUNSEL, NATIONAL ASSOCIATION OF HOUSE DRESS MANUFACTURERS, NEW YORK, N. Y.

The CHAIRMAN. Mr. Feldman, we will hear you.

Mr. FELDMAN. My name is Erwin Feldman. I am counsel for the National Association of House Dress Manufacturers, garment manufacturers; and I am addressing myself now to the proposition of a question which would be constantly unfair to the public on the possible revision of these standards, should it appear necessary.

I think that there is adequate precedent for the law which has been held constitutional, and that is the system under the Federal wage-and-hours law, where you recall industry committees were appointed by the administrator who had the power to pass upon the recommendations of the members, and the Administrator had the power to accept or reject those recommendations. .

That is all he had the power to do. If he did not accept the recommendation the old standard remained. If he rejected the old standard it did not remain.

Now, the Supreme Court of the United States has ruled that under the wage-and-hours law that system was perfectly constitutional. These industry committees were appointed by the Administrator under the wages-and-hours law and were composed, as you recall, of labor, public and so-called industry representatives.

Now, in this instance the committee could be the public, represent the consumers' interest, manufacturing interests, and the Government interest, if you will, or people connected with the Bureau of Standards.

They would have the power to make a recommendation to the Secretary which he could accept or reject. In this way you have industry heard. If industry feared that the Secretary might do something radical, that could be dispelled, and you would have the public representatives on these, too.

I think nobody has talked about that up to now.

Now, that system has been declared constitutional. We know that it has been in effect. It is in effect today.

So, I think it would meet all of the problems and solve the predicament of those who are fearful that some of the proposals made by the bills now before you might lead to arbitrary action. So, you would have in this particular the standards proposed in the law. The standard could only be changed if the Secretary of Commerce appoints the committee and if that committee makes a recommendation for a change, which he adopts. He can adopt or reject their recommendations—no more. And, he cannot make any other changes except upon the adoption of their recommendations.

The Industry Advisory Committees are functioning under the wage-and-hours law. They have solved the problem.

That committee could take away any arbitrary action on the part of the Secretary, and if industry feel fearful. I am sure that they would be satisfied by that method. Nobody has yet suggested that. That is a whole lot different from the business of having to poll 65 percent of the industry and in different categories.

Moreover, the Secretary would give all of the parties who have something to say about this an opportunity to be heard.

That would be the ideal way, in my opinion, of protecting every interest in the event there is any need for a change in these proposals.

I would like to address myself to another point if I may; unless you want to discuss that issue.

As you realize, the garment manufacturers are a sort of a hidden minority here since nobody has appeared up to now in their behalf. We have had the retailers; had the textile people. But, we are in between.

Our industry has studied all of the bills before you carefully. We subscribe to the proposition that Federal legislation is necessary. Otherwise there could be no uniformity. If the States go to work on it and pass laws, there will be no uniformity.

Mr. DOLLIVER. At that point, have there been some State laws on the subject?

Mr. FELDMAN. Yes.

Mr. DOLLIVER. How many?

Mr. FELDMAN. Several. California is one. I understand that a bill was passed by the New York Legislature but was vetoed, fortunately. Governor Dewey vetoed the bill that was passed within the last few weeks, but there have been a number of State actions throughout the country, and it is absolutely necessary that we have uniformity, because the apparel manufacturing and distribution is an interstate industry. It could break down if 48 States legislated on the subject of flammability.

But, we must be careful about not stepping on the toes of an industry that is not guilty of any wrong doing. The manufacturers that I represent are in that category. I have been in the industry for

30 or more years. I have been representing them for 20 years, and during that time we have shipped millions of garments and I have never heard of a claim made on account of flammability or injury to a wearer of any of our apparel.

So, as in all of these situations, you have to be more careful that you do not do undue harm or injury to the innocent.

Now, under the structure, that seems to be the pattern of all of the bills you propose, there is a guaranty of some kind, emanating from the first maker of the fabric, who in turn gives a guaranty to the manufacturer, and the manufacturer in turn gives a guaranty to the retailer.

Now, I want to call your attention to the fact that if it is a criminal offense to ship in interstate commerce goods which violate the standards, and the onus and burden has to fall upon the man who manufactures the goods, and that is the mill. The garment manufacturers have nothing to say about any of the factors that go into the fabric which might involve the question of flammability. They have nothing to say about that. They merely take the fabric, cut it up and sew it together and deliver a garment.

Now, since they haven't got any control over the elements that go into the fabric that determines its flammability there ought not to be anything that the garment manufacturer ought to have to bargain for, to get a guaranty. It should be mandatory on the part of the textile mill to give the guaranty, and once he gets that guaranty, the garment manufacturer should merely transmit the statement that he has received such and such a guaranty, to the retailer. Otherwise, we may have a very difficult situation.

Only a few years ago, gentlemen, we saw the textile situation so tight in this country that I did not know any single garment manufacturer who stood up against a mill who refused to give him a guaranty, much less a yard of cloth. So, there ought not be bargaining or it ought not to be necessary to have bargaining over a guaranty, because of the law. The act should state clearly that it is not only required of the fabrics that they should pass a standard test of flammability, but that the original maker of the fabric, or the processor is responsible, and if the question of flammability is raised, he must give the intermediate handler a guaranty on that fabric.

The CHAIRMAN. Does the bill provide for that?

Mr. FELDMAN. Not a single bill provides for that. We have to go and bargain for that.

The CHAIRMAN. Do you have any amendment to suggest that would accomplish the purpose that you have in mind?

Mr. FELDMAN. I will suggest an amendment which would make it mandatory to give a guaranty by any seller of a fabric.

The CHAIRMAN. Will you prepare such an amendment and give it to the legislative counsel?

Mr. FELDMAN. I shall, sir. I should like to call attention to another very important fact.

The CHAIRMAN. I am not suggesting by that that the committee is in favor of that.

Mr. FELDMAN. I appreciate that.

The CHAIRMAN. This matter will have to be considered by the committee, but in order that we may have your view point in concrete form I am asking you to prepare an amendment.

Mr. FELDMAN. I will do that, sir.

I would like to call attention to another important factor.

Our manufacturers sell our products to every city and town in the United States. We have as many as eight and ten thousand customers on our books—a single manufacturer. They buy a dozen; they buy a thousand dozen. We checked credit on open account to 48 States in the Union.

Now, if we are to give a statutory guaranty to a retailer that the goods that we are shipping him, the garments, contained fabrics, and the wearing apparel, which have been tested and will withstand the flammability tests, such as prescribed by the act, an unscrupulous retailer could make a spurious claim that the particular fabric in this case violates that rule and refuse to accept the merchandise or pay for it.

We would be obliged to bring an action on our money, and meet that kind of a defense and make, for example, the proof of flammability under techniques which differ in every part of the United States, unless this act would specifically state that this provision of giving a guaranty under the act by a garment manufacturer to a retailer does not in anyway affect a private contract of sale.

Gentlemen, the test of flammability is a very narrow line, as you have heard here. The test is in second—seconds in burning, mind you.

Now, a retailer who wanted to could say, "I have tested this fabric as to flammability and I find that it burns 1 second faster than the law allows and, therefore, I will not pay for these goods, and I will ask you to accept their return." We would have to go in and defend that, and he could say, "I have your guaranty."

If there were the case we would be in a pretty sad state of affairs.

Now, what we are saying is simply this: The act, because it provides for the giving of a guaranty to exempt one from liability, the one getting the guaranty in good faith and transmitting it to the next person in good faith, should be exempted from liability. It ought not to enlarge the liability of the intermediary handler outside of his private contract of sale and there should be a specific provision to that effect, for otherwise we could have a terrible situation. Should there be claims made on such a thin line as to whether a half second extra burning time rendered the transaction ultra vires under a guaranty?

The CHAIRMAN. Will you prepare an amendment to cover that point you have in mind?

Mr. FELDMAN. I shall do so.

Mr. CHAIRMAN. And submit it to our counsel.

Mr. FELDMAN. I shall be glad to do so.

Now, in my brief I have filed here, I said we are in favor of, and oppose certain provisions of the four bills we understand you are now considering and we state in broad terms the elements we are in favor of, and the elements that we are opposed to.

I should like one moment to discuss the question of the test method procedures in addition to the point I made before regarding a method of getting around the constitutional barrier that seems to be involved in the suggested methods for getting revision.

As I said before, the industry advisory scheme of the wages-and-hours law would be ideal in this industry. You would have public members; you would have industry people and you would have Gov-

ernment representatives who jointly could make a recommendation to the Secretary which he could accept or reject, and he would not have to poll 65 percent of the industry, and moreover, I do not understand why it is presumed that 65 percent of the textile industry is all that is involved in this industry. The garment manufacturers are about as much affected by any changes as anybody. So are the retailers, and the problem of going out and canvassing 65 percent at least of that number of retailers and manufacturers—I need not tell you what a prohibitive situation that imposes on anybody who tries to do it. But, the system of industry advisory committees which would be followed by the Secretary, to make suggestions for modifications of the rule which the Secretary could accept or reject, it seems to me would meet every objection and would solve the constitutional hurdle.

I have been told, and my interest in the question of the test is, that it is not a definite and final test method of the kind that you would say is a standard that the National Bureau of Standards has adopted for other industries and for other subjects. This is a tentative thing.

Now, we have new fibers coming out on the market every day. The chemistry of the fiber is so intricate that fibers can be made out of almost every conceivable substance—earth, air, water—in addition to the natural fibers and the animal fibers that we have known for years.

The new treatments that are put on fabrics to render them crease resistant may or may not quicken the speed of burning and this has nothing to do with the finished fabric. The fabric is finished and then treatments are given to it by applying something to its surface.

Now, these additional treatments may seriously affect the question of flammability. So that a test, in the sense that it would be scientifically acceptable would have to be one that would meet many situations. It would have to be one that would be workable.

Now, gentlemen, I think that Mr. Buck, of the National Cotton Council of America described it accurately when he said that you are not to presume that they are able to get a test which, if you perform it in your factory on certain constructions of goods, and when I perform it at my factory, would get the same results. We know that we do not get it. We have good processing, but we do not get standard weights and fills. They vary. Sometimes the tension of the loom alone could create a complete change in the ultimate fabric which would involve flammability. So, if you test a run of the goods, you can find under that test that you have got compliance, and you may pick out of the bale, of the same run a piece of goods from the same run, the same machine, or mill, made at the same time, which will not meet the test. It might even be that atmospheric conditions affect it.

Now, if the tolerance areas were, let us say, 3, 2 or 3 seconds, then I would say that we have got a standard; but as to tolerances, there is virtually no tolerance at all. You either have a piece of goods that will burn in X seconds, or it will not. It will take longer to burn. And, these leave such a narrow line that anybody can find a yard of goods on every shelf where it is close to the line. That is what I am saying—where this fabric is close to the tolerance line. You are going to describe a line. What is it to be, a straight line, and are the goods which fall under it to be declared unlawful and those just above, lawful?

Now, of course, I think that it is the intention of the legitimate textile people not to make fabrics that are close to the line. Certainly

the apparel people should not, and the textile industry, should not manufacture a large bulk of fabrics that are close to the line, but because of the nature of apparel fabrics, it is very difficult to determine. For example, in this time of the year, and in the summer months, we come into what is known as sheer fabrics; very light summer-weight fabrics. The lighter and sheerer they are, the more susceptible they are to quicker burning.

I think that the women of the United States will not give up their sheer fabrics, because you pass a bill, and I think that the wearing habits of the people throughout the United States are not going to be so revolutionized by a stringent measure.

We must bear in mind, if we are going to have summer-weight fabrics, we are going to have sheer materials. We know of no way of rendering them inflammable. So, it is a question of degree of flammability.

As I say, when you get the sheerer construction, you have more flammability.

I think that the standard we now have ought to be given a trial. The industry ought to be able to use it to remove as much of the objectionable features of the goods as it can, having in mind the needs of the people and a fabric that is comfortable.

In addition to that I think that a system of an industrial advisory committee, making recommendations to the Secretary which he could accept or reject would be the ideal way of solving anything which would come up suddenly as to test methods or needed to be revised for whatever reason, and I shall be glad, with your permission, sir, to submit my suggestions in the form of an amendment, if allowed.

The CHAIRMAN. Very well. I assume then from your remarks that you think it would be wise for the committee to pass no bill at this time, but merely wait and see how the standard now fixed would work out?

Mr. FELDMAN. No; I have not said that. The bill should be passed with the present standard, as the law.

The CHAIRMAN. That is what we started out to find out from you folks, whether you approved that or not.

Mr. FELDMAN. I approve that on behalf of my industry. I approved that. I then suggested a provision that the Secretary of Commerce may at his discretion at any time, appoint an industry advisory committee or advisory committees, that could make recommendations to him for a modification of the standard. This advisory committee must be composed of representatives of the industry, the public, and the Government. He can accept or reject a majority finding of that committee, but he cannot alter it and cannot make any changes on his own motion. This would leave the door open. It would give everybody an opportunity to be heard. It would take away the possibility of arbitrary action on the part of the Secretary. It would be an ideal solution to the question as what to do in case you have to change the standard in the near future; but I say enact the standard.

The CHAIRMAN. Give the control of the standards to the advisory committee?

Mr. FELDMAN. Well, there are many checks and balances in my suggestion.

The Secretary of Commerce must, in his discretion, appoint such a committee. That committee must be composed of one-third public,

one-third industry, and one-third scientific interests. Their recommendations, the majority of that committee, could be accepted or rejected only by the Secretary.

Now, that is the pattern of the Federal Wage and Hours Law's Industry Advisory Committee. We operated under that for 8 years. The Supreme Court said it was constitutional and everybody was very happy under its operation. Now——

The CHAIRMAN. Will you repeat that?

Mr. FELDMAN. Well, I would say, some were. I will modify that. I have seen no violent objections on the part of anyone to the industry advisory system. You recall how that worked. The Federal law originally said that the minimum wage should be 25 cents an hour and then raised it to 40 cents an hour, or something like that, and the advisory system. You recall how that worked. The Federal law to 40 cents, which the administrator could accept or reject.

The CHAIRMAN. I think you have made your point very plain, Mr. Feldman in your reference to the Wage and Hours Act.

Now, are there any questions?

Mr. DOLLIVER. I just want to make one matter clear with respect to the segment of the industry which is interested in this legislation and whom you represent. That is the garment manufacturing industry?

Mr. FELDMAN. Yes, sir.

Mr. DOLLIVER. Does that include women's and men's?

Mr. FELDMAN. Only women's apparel.

Mr. DOLLIVER. Only women's?

Mr. FELDMAN. Yes.

Mr. DOLLIVER. Only women's dresses?

Mr. FELDMAN. Yes.

Mr. DOLLIVER. And only certain types?

Mr. FELDMAN. Are you familiar with Senator Reed's wife's business in Kansas City?

Mr. DOLLIVER. I have heard something about it.

Mr. FELDMAN. She is one of the manufacturers I represent. The Donley Garment Co. I also represent Rice-Stix Dry Goods Co., of St. Louis, Mo. I represent institutions of that sort and large manufacturers of women's brand lines of dresses.

Mr. DOLLIVER. I see.

Mr. FELDMAN. Women's dresses.

Mr. DOLLIVER. Now, what material do you use?

Mr. FELDMAN. We use every known fabric. We use cotton, rayon, wool, and silk. The greatest proportion is cotton. The second is rayon, and the third is wool, and the fourth is silk. We use all of the new synthetics—nylon—we use orlon; we use vikar(?).

Mr. DOLLIVER. Dacron?

Mr. FELDMAN. No; no dacron. That is not a dress fabric yet. We are familiar with it. And, we use all fibers.

Mr. DOLLIVER. The point that I am making is, you are not speaking particularly about any particular fabric. You are talking about all of them?

Mr. FELDMAN. That is correct.

Mr. DOLLIVER. That is all, Mr. Chairman.

Mr. HESELTON. Mr. Chairman.

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. I thought from a remark you made that your feeling is that it would be completely impossible or almost impossible to check your industry in terms of approval or disapproval of a proposed revision. Am I correct?

Mr. FELDMAN. In addition to the few manufacturers I represent, there are about 3,000 miscellaneous garment manufacturers in loft buildings and other places in New York which open and close every month. They open and disappear sometimes overnight. And, if you knew anything about their operations, you would hesitate to make a statement that it was possible to be 65 percent, because you would not know where to find them.

Mr. HESELTON. That leads me to this question. Do I understand that your industry has been consulted in terms of approval of this legislation?

Mr. FELDMAN. Yes; our board of directors has authorized my appearance here.

Mr. HESELTON. No. You misunderstand me.

Mr. FELDMAN. We have never been advised regarding the standards, except that we learned it through the trade press and through my own personal investigations, but, formally, nobody has ever come to the National House Dress Manufacturers, or any member of our board or any other official and asked whether we have been shown the standards and okayed them or not. They have treated it as a textile problem and I think it really is; but I think that they have the responsibility of making the fabric, and that they should conform with the standard. They should conform to the standard and they should give us a guaranty. We should in turn transmit that statement to the retailer, that we have received such and such a guaranty, and that should relieve us of all responsibility and in turn we should not be obliged to alter our private contracts of sale because of the transmission of such a guaranty.

Mr. HESELTON. Is it not a fact that in the manufacture of the dress, those operations can result in increasing the flammability over what it was previously?

Mr. FELDMAN. Not at all, sir. I cannot think of a single operation that would increase the flammability. We take the fabric and we cut it up on long tables and markers, and pile it up high. We cut it out into parts and we sew them together and put them on trimmers, and press them. That is all there is to it. In no way do we process the fabric except by pressing it, if it is wrinkled. Otherwise we give no treatment to it whatsoever. And, if the flammability is set when it comes in it is the same when it leave us. We do nothing to affect the flammability as such.

Mr. HESELTON. Have any tests been made to bear that out, to your knowledge?

Mr. FELDMAN. In 20 years, we have shipped hundreds of millions of dresses and we have never had a claim as a result of flammability. That is the only thing that I can tell you.

Now, as to these torch sweaters that created all of this uproar, and the cowboy suit things. I think to a certain extent the affects of it have been exaggerated. If you had any idea at all as to the quantity of goods turned out in a year, you would understand that.

I think that more people are burned by newspapers than by garments, yet, nobody is doing anything about the flammability of newspapers. I can assure you that this thing has been exaggerated.

We are in the same trap you are in. If we do not do anything about it here, 48 States later are going to go ahead, because the newspapers have aroused a lot of interest and a lot of talk, and we would rather have a Federal statute that we know that we can live under, rather than to have 48 State laws, and have to attempt to comply with all of those State laws, in addition to the other things. I tell you that it is a serious problem.

Mr. HALE. Mr. Chairman.

The CHAIRMAN. Mr. Hale.

Mr. HALE. I would like to point out that most people know that newspapers are inflammable, but they do not always realize when their clothes are.

Mr. FELDMAN. Well, that may very well be; but I would say this, if we had a way, as the insurance people do, of taking the total output and the number of people wearing garments, and changing them every day, and the myriad of changes that occur, and could take the number of instances which somebody was hurt as a result of a flammable piece of textile, I think that the problem would be shown to be not acute as it appears.

I do not think any of us would be here today, had it not been for the action of the few States and the threatened action of others. Let us face that. I do not think that Congress would be taking an interest in the legislation had it not been for the newspaper talk, describing people buying torch sweaters, and going up in smoke as a result of buying those garments. Actually I do not know in numbers how many they make, but I think that we turn out more dresses in 1 day than they turn out in a year, or in 10 years. Here we are tying ourselves up with all sorts of legislation, worrying about how we are going to comply with it. We are going through this, spending money on counsel, when we have never had a flammable case in my 20 years connection with it, and before that I never heard of it. I hear of everything. If there had been anything I would have heard of it. I have to take care of everything from strikes down to lockouts. We never had a claim involving flammability, and I do not expect that we ever will have one. We buy our goods from reputable textile houses, and we manufacture our garments according to acceptable standards.

I think perhaps this might be a time for somebody to stand up and say to the State legislatures, "Are you not exaggerating this problem? Would not the industry's voluntary action of adopting a standard solve this without the need for all of the machinery that you are going to create in dealing with this problem?"

I think that the textile people could solve it. I think that it could be solved and avoid any legislation. But, they say that they have—and I must give them credit for having the bill in New York State vetoed.

Mr. HARRIS. Mr. Chairman.

The CHAIRMAN. Mr. Harris.

Mr. HARRIS. I would like to ask you to answer very briefly 2 or 3 questions.

The bill reported last year was the result of the work in setting up the present standards adopted by the Commerce Department?

Mr. FELDMAN. That is correct.

Mr. HARRIS. Was industry pretty much in accord with that legislation?

Mr. FELDMAN. I will put it to you this way. I represent the garment manufacturers and when people like Mr. Ray Bell, president of the Association of Cotton Textile Merchants of New York and other textile interests tell me that it is O. K., I know that it is O. K. I know that they are faced with serious difficulties, and I accept it on that basis.

I, myself, never engaged any chemists or made any tests.

Mr. HARRIS. Anyway, at that time it was generally accepted and proposed as proper?

Mr. FELDMAN. We think so; yes.

Mr. HARRIS. Now, is that standard enforceable without this law? Would the standard be enforceable?

Mr. FELDMAN. I think so, because the interests represented by these trade groups have voluntarily adopted these standards. You have 99 percent of all textiles covered.

Mr. HARRIS. But, the question is, Is it enforceable?

Mr. FELDMAN. Without this legislation?

Mr. HARRIS. Yes.

Mr. FELDMAN. Under the FTC broad powers; yes.

Mr. HARRIS. Well, now, if this legislation were passed, it would not prohibit the States from adopting similar legislation?

Mr. FELDMAN. That is the \$64 question and I am going to tell you about that. Yes. There are many lawyers who say even if you act here, gentlemen, and pass a Federal act, the police powers of the States are such as would authorize them to pass legislation on the same subject, of a different type, and different statutes. We are hoping that they will adopt your bill as a model.

Mr. HARRIS. I appreciate that.

Mr. FELDMAN. That is the only hope we can express, because we will have to go to 48 legislatures, and if we have to go to 48 legislatures and do what we are doing here, we are going to be worn out.

Mr. HARRIS. Well, you are doing all right.

Do I correctly understand that it is the feeling that industry generally does not want to delegate this authority to a governmental agency?

Mr. FELDMAN. Yes. I will go along with the textile industry in feeling that no single person ought to be able to issue a fiat, a regulation, changing this standard, because it might stop the wheels of progress.

Mr. HARRIS. All right. You have answered that question.

Now, if we were to provide for the industry to have the controlling or final word, is it not possible that industry would get into such a tangle themselves as they apparently have been before this committee in the last several years, it would result in nothing being done?

Mr. FELDMAN. That is a possibility that it might be unconstitutional too.

Mr. HARRIS. All right. Now, you have made the proposal yourself which you say would be constitutional.

Mr. FELDMAN. To have an industry committee make the recommendations.

Mr. HARRIS. I do not agree with you that the wages and hours bill has had such unanimous indorsement.

Mr. FELDMAN. I am talking about the industry advisory committee proposition.

Mr. HARRIS. I know, you said that it had been satisfactory to everybody.

Mr. FELDMAN. Nobody has gone out objecting to it.

Mr. HARRIS. There has been more controversy on the wage and hours issue throughout the country than anything I know of, unless it is the Taft-Hartley law.

Mr. FELDMAN. On that point.

Mr. HARRIS. I am going to wind this up in a minute, if you will let me.

On that particular point what would be your reaction to a procedure whereby the Secretary of Commerce could be authorized to make the changes as they developed to be necessary, only after public notice and hearing?

Mr. FELDMAN. There are some of us who believe that when an administrative official has such power under other acts, he has made up his mind in advance and the public hearings are just dress rehearsals and so it is really giving the power to the administrator. Let us fact it. And, that is what has happened in practice. He has pretty well made up his mind. The public is asked for statement for or against his proposal.

This other way, you have an industry, have the technicians, and the public, making recommendations for the changes.

Mr. HARRIS. I know all of that; but we have seen from our experience industry getting in such a tangle that it has gone for years and years before it was able to do anything.

Mr. FELDMAN. He could appoint 3 industry representatives; 3 public representatives, and 3 technicians.

Mr. HARRIS. We have seen those things work.

Mr. FELDMAN. Nothing works perfectly, including our industry.

Mr. HARRIS. That is the reason I was just asking for your reaction.

Mr. FELDMAN. My only statement is that if you give him the power to call public hearings, to say that you thing about his ideas, we view that as just being a dress rehearsal. In 99 cases out of 100, they go through and the decision is made on his own motion.

Mr. HARRIS. That is all; thank you, Mr. Chairman.

The CHAIRMAN. If there are no further questions, the committee will adjourn until 2 o'clock, and I am very hopeful that we will close this by 4 o'clock, and to accomplish that purpose, I would suggest that the witnesses who are here with the same viewpoints, agree among themselves as to how much time they will take and who will do the speaking for them, because in that way we can eliminate repetition, save our time, and save your time.

(Thereupon, at 12:25 p. m., the committee recessed until 2 p. m., of the same day.)

AFTERNOON SESSION

(he hearing was resumed at 2:00 p. m.)

Mr. HINSHAW (presiding). The meeting will come to order.

As I understand it, there were certain gentlemen who were to get together, perhaps, to appoint a spokesman. Has that been accomplished, or has it not?

STATEMENT OF EPHRAIM FREEDMAN, DIRECTOR, BUREAU OF STANDARDS, OF R. H. MACY & CO., INC., NEW YORK, N. Y., APPEARING ON BEHALF OF THE NEW YORK STATE COUNCIL OF RETAIL MERCHANTS AND THE RETAIL DRY GOODS ASSOCIATION OF NEW YORK

Mr. FREEDMAN. Mr Chairman, I have been asked to speak on behalf of the retail industry.

Mr. HINSHAW. And will you state your name, please?

Mr. FREEDMAN. My name is Ephraim Freedman. I am director of the Bureau of Standards of R. H. Macy & Co., Inc., New York City.

Mr. HINSHAW. And you are speaking for a segment of the industry known as—

Mr. FREEDMAN. The New York State Council of Retail Merchants and the Retail Dry Goods Association of New York.

Mr. HINSHAW. Thank you. Will you proceed.

Mr. FREEDMAN. The fact that my appearance is in a dual capacity is worthy of special mention, since the organizations I represent include big business and small, big retail business and small retail business, throughout the State of New York, both of which have a community of interest in the outcome of the proceedings held here today.

I am a senior member of the American Association of Textile Chemists and Colorists, a member of the New York District Council of the American Society for Testing Materials, a member of the Executive Committee of the Textile Section, New York Board of Trade, a member of the Textile Research Institute, and first vice chairman of the Consumer Goods Standards Board of the American Standards Association.

This statement is presented to urge the enactment of H. R. 3851 introduced by Congressman Gordon Canfield of New Jersey.

Our primary objective is the enactment of legislation prohibiting the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals.

This is the primary objective of all retailers. Certainly it must be the objective of all public-minded individuals regardless of whether they are in industry or in government, whether they be manufacturers or retailers or consumers.

This primary objective must not be lost sight of, for no right-minded individual wants to feel that because of procrastination on his part, there has been another case of injury and pain and suffering and even death resulting from the sale of highly flammable garments.

Flammability legislation has been introduced in previous sessions of the Congress. Several such bills have been introduced during the present session.

Progress leading toward the attainment of the objective is constantly in evidence, yet always, issues arise which obscure the number one target—flammability legislation—and lead us away from our objective. This should not be, yet, unfortunately, is a matter of public record. Why?

Flammability legislation passed the Senate of the 82d Congress and was introduced in the House where it failed of passage during the closing days of that session by being referred back for further study.

The question has been raised as to why that particular piece of proposed legislation was not satisfactory. Why did it have to be amended?

The answer is not too difficult. The facts, as I understand them to be, are these:

1. Section 4 of the Seely-Brown bill, H. R. 7258, referred to a commercial standard which did not then exist. So did the Canfield bill, H. R. 389. A commercial standard does now exist and H. R. 3851 refers to a currently existing commercial standard CS 191-53. Surely there should be no controversy over this change.

2. Section 4 of H. R. 7258 set forth that the wearing apparel or fabric should be tested under the conditions and in the manner prescribed therefor in the then applicable commercial standard promulgated by the Secretary of Commerce. So does H. R. 389.

The issue has been raised that in H. R. 3851, Section 4 now contains a new paragraph 4 (b) which in effect prohibits the Secretary of Commerce modifying or supplementing the test methods, procedures and standards when in his opinion the protection of the public interest so requires. The exact language that is under fire reads as follows:

Provided, however, That any such modification or supplement shall have been developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53.

I respectfully submit that the inclusion of paragraph 4 (b) does not dilute or vitiate section 4 of H. R. 7258 or section 4 of H. R. 389, nor does the inclusion of 4 (b) change the intent of section 4 in these previous bills.

Instead, it provides for a living standard, a flexible standard, a standard which can be changed if and when the need therefor becomes evident. Surely, no valid criticism can be leveled at the inclusion of section 4 (b) of H. R. 3851 without leveling it with greater emphasis on the previous bills.

Furthermore, no evidence has been forthcoming, nor do we know that the powers or duties of the Secretary of Commerce have been changed one iota with regard to the manner or the method of promulgation of commercial standards since H. R. 7258 or H. R. 389 were introduced. Nor has the Secretary of Commerce changed the procedure leading up to the promulgation of commercial standards.

Therefore, the argument simmers down to the fact that these are not mandatory but voluntary standards.

It is further asserted that whereas commercial standards are voluntary standards, Commercial Standard 191-53 should not be the basis in the law upon which to judge the adequacy of the test procedures or the standard of flammability unless the Secretary of Commerce is

given full authority to change, modify, or supplement them as he and he alone sees fit.

I respectfully submit that the development and the promulgation of commercial standards is an outstanding example of democracy in action. It is a most noteworthy exposition of our system of free enterprise at its best—where industry, of its own volition, and with a unanimity of purpose of all parties—that is, manufacturer, retailer and consumer—has undertaken extensive investigation and research, has come forward with acceptable standards and test procedures and, what is more, with proposed legislation in the interest of the ultimate consumer.

By this action, industry voluntarily submits to having its freedom of manufacture, transportation, and sale of certain goods denied to it for the public good.

Whatever other reasons may exist for this action on the part of industry, it cannot be gainsaid that such action, taken in the public interest as a monument to our beloved system of free enterprise. It remains also, a tribute to and a symbol of trust by industry in the Government of the United States. Industry fully appreciates the worth of these commercial standards, created as they are by voluntary effort. I believe industry would question seriously the wisdom of any proposal to amend or not to amend CS 191-53 if such action or failure to act were not in the public interest.

3. H. R. 7258 did not provide for guaranties. Retailers and others engaged in the garment trades saw the need for guaranties to protect them in the event that they purchased merchandise which unbeknownst to them was so highly flammable as to be dangerous when worn by individuals.

Therefore, in H. R. 389, there was included a provision for penalties in the event that false guaranties were issued.

Subsequent to the introduction of H. R. 389 manufacturers raised several questions with regard to penalties. They set forth that the giving of a guaranty was a voluntary, not a mandatory provision.

They stated that because of variations existing in the surface of certain types of goods, for example, flannelettes, there might be instances where portions of a bolt of goods and therefore one or more garments might not pass the test. They argued that if they sold such goods, they might be held legally liable under the provisions of 8 (b) of H. R. 389 and that they would therefore be subject to double penalties; that is, under section 3 (a) which deals with prohibited transactions and under section 8 (b) which deals with guaranties.

They argued that if they were guilty under section 8 (b) they were ipso facto guilty of violating section 3 (a); therefore, there was no need for section 8 (b).

We believe that their position with regard to double penalties is tenable.

Whether the language of the guaranty in H. R. 3851 is satisfactory is a moot question. Speaking on behalf of the retailers of New York State, we prefer the language in section 8 (a) of H. R. 389. However, we will not oppose H. R. 3851 because of this difference. Our number one objective, as I stated before, is the immediate enactment of flammability legislation.

4. The provision in H. R. 7258 and in H. R. 389 setting the effective date 6 months after the date of passage has, after sober deliberation,

been extended to 12 months in H. R. 3851. The reason arises from the time lag incurred in the disposal of goods which may not reach garment cutter or retailer until months have elapsed. Here, also, we agree the position is tenable, except that we feel manufacturers, convertors, and finishers should be required to cease manufacturing fabrics which are so highly flammable as to be dangerous when worn by individuals within 30 days after the enactment of flammability legislation, otherwise the flow of such merchandise will continue to garment cutters and retailers to the end of the 12 months period of grace.

We trust that manufacturers, convertors, and finishers will agree as to the reasonableness of our position.

Mr. HINSHAW. Pardon me. Are you recommending that we include such a provision in the law?

Mr. FREEDMAN. I do, sir, so far as the effective date is concerned.

Mr. HINSHAW. That no further manufacture of goods found to be flammable, highly dangerous, be manufactured?

Mr. FREEDMAN. Within 30 days after the passage of the act, sir.

Mr. HINSHAW. Proceed.

Mr. FREEDMAN. There is one other matter in connection with the changes that exist between H. R. 3851 and H. R. 7258. H. R. 7258 exempted hats, gloves, and footwear.

I will skip over that paragraph, in the interest of time, since I believe there is no disagreement on it, sir.

Mr. HINSHAW. No.

Mr. FREEDMAN. And I shall go down to H. R. 3851 versus H. R. 389.

It seems to me that all of the changes which have been incorporated in H. R. 3851 are minor changes when compared to H. R. 389, and that they do not lessen in any material degree the quality nor the amount of protection offered to the consuming public. On the contrary, the inclusion of the provision for modifying or supplementing the test methods, procedures, and standards affords an ever-existing flexible vehicle for revising test methods, procedures, and standards if and when such revision is required in the public interest.

Mr. Chairman and gentlemen of the committee, because of the reasons which I have just enumerated and on behalf of the New York State Council of Retail Merchants and on behalf of the Retail Dry Goods Association of New York, I urge the enactment of H. R. 3851 introduced by Congressman Gordon Canfield of New Jersey.

With your kind indulgence, I would also like to address several remarks concerning statements made at the last hearing—statements which may have raised questions in your minds as to the scope of H. R. 3851; that is, why it did not include all textiles and all household articles; as to whether the commercial standard was promulgated without the approval of a substantial amount of the industry affected; as to whether it had the blessing of consumers.

All textiles; that is, other than those intended for use in wearing apparel have not been included for at least two most potent reasons, as follows:

1. It has taken 8 years to arrive at a meeting of minds among all segments of the industries that would be affected should H. R. 3851 be enacted into law. Eight years of searching for adequate, reproducible, reliable test methods; 8 years for developing test apparatus; 8 years for the conduct of interlaboratory tests and for testing many different types of fabric; 8 years for the gradual removal of fear and

distrust and for the substitution of hope and confidence in all concerned that everyone taking part in these activities and everyone engaged in the various levels of the industries affected would do his utmost to make this law a workable law, a just law, an efficient law—a law capable of attaining the primary objective, the protection of human life against the hazards involved in the wearing of garments which are so highly flammable as to be dangerous when worn by individuals.

While various standards exist for the evaluation of drapery materials used in places of public assembly, they do not exist for similar materials used in the homes. They do not exist for blankets, sheets, pillowcases, carpetings, upholsteries or for other home furnishings.

Before such standards could be developed all of the segments of the textile industries involved would have to be consulted. Many more years of effort would have to be expended and, I am afraid that, and believe, with no reflection on any of us, to paraphrase an old but well-known quotation, "While Nero fiddles Rome burns," while we occupy ourselves with these other matters our dear ones burn. I say this rather with sadness, because a cousin of mine, of my age, some 10 years ago, died as a result of being severely burned when wearing a dangerously flammable robe. Gentlemen, let there be flammability legislation.

It has been remarked that legislation such as the Wool Products Labeling Act was enacted regardless of industry opposition.

I should like to submit that section 14, Exceptions of the Wool Products Labeling Act, reads as follows: I quote:

None of the provisions of this Act shall be construed to apply to the manufacture, delivery for shipment, sale, or offering for sale any carpets, rugs, mats or upholsteries, nor to any person manufacturing, delivering for shipment, shipping, selling or offering for sale any carpets, rugs, mats or upholsteries.

Gentlemen, if these household articles had not been exempted, I venture to say there would have been no Wool Products Labeling Act. And this statement is not being made in any derogatory vein, for it is my understanding that Congressmen are in duty bound to look after the interests of their constituents.

So it will be with this proposed flammability legislation. If you insist that all textiles be included, regardless of whether it is or is not worn by individuals, I predict there will be no flammability legislation this year or for many years to come. If what I have just said makes sense, then the argument against those who desire all household articles including toys, et cetera, makes even more sense.

I urge therefore that no attempt be made at this time to enlarge the scope of H. R. 3851.

The question was asked as to whether the commercial standard was an industry standard and, if it were, what percentage of acceptances were received.

A commercial standard is a voluntary standard representing at least 65 percent of the volume of business, with no active valid opposition. In this case, I am informed by a representative of the Commodity Standards Division of the Department of Commerce that at least 65 percent of the cotton manufacturing and converting groups and of the rayon manufacturing and converting groups signed acceptances and that there was not one valid opposition registered to this

standard. And I make mention of the rayon and the cotton loops, because, gentlemen, those are or have been, unfortunately, the sources of materials, or the textile fibers coming from the cotton and the rayon groups, that have been giving us most of the trouble. That is no reflection upon rayon or cotton or upon the industry. I am merely making a question of fact.

The question was raised as to whether consumers have participated in the creation of these standards. I am authoritatively informed that the standing committee which collaborated in the creation of this commercial standard includes: The General Federation of Women's Clubs, National Education Association, National Council of Women of the United States, Underwriters Laboratories. Consumer groups have not only helped create these standards, they have also signed acceptances of these standards. I crossed one out, incidentally. I would not accept them as representing a consumer group, that is, the American Institute of Laundering. But those that I accepted are the following:

National Commission on Safety Education, National Education Association.

Teachers College, Columbia University.

Department of Clothing and Textiles, Florida State University.

Good Housekeeping Institute.

Harvard Cooperative Society.

Hospital Bureau of Standards and Supplies, Inc.

Department of Clothing and Textiles, Kansas State College.

Mabel Dean Bacon Vocational High School, New York, N. Y.

Mellon Institute.

Department of Textiles and Clothing, College of Home Economics, University of Tennessee.

Bureau of Agricultural and Industrial Chemistry, U. S. Department of Agriculture.

Bureau of Indian Affairs, United States Department of the Interior.

These, gentlemen, are the main issues as we understand them to be. I have tried to cover them clearly and concisely without mental reservation or any equivocation.

Retailers are wearying of this eight year battle. New York retailers have recently seen flammability legislation, which I incidentally had the honor of being asked to prepare for the State of New York, which passed the New York Senate by a record vote of 54-0, vetoed by the Governor of New York. vetoed only to avoid embarrassment to and confusion in the industry due to the fact that our State law would become effective prior to the time fixed in Federal legislation. The Governor heartily approves of the objective. I have the strongest assurance that when Congress enacts the Federal statute a New York State measure which will conform to the Federal bill in essential details and provide that both measures shall become operative at the same time.

Other states and municipalities are likewise undoubtedly withholding action, awaiting the outcome of congressional action.

Such action rests, gentlemen, with you. Shall we or shall we not have flammability legislation during this session of Congress?

The New York State Council of Retail Merchants, Inc., and the Retail Dry Goods Association of New York join with the NRDGA and all other groups in hoping that you will act favorably on H. R. 3851.

If you do so, our No. 1 objective, a means for saving human lives through the elimination of fabrics which are so highly flammable as to be dangerous when worn by individuals, will be reached.

In closing, I want to express my thanks to you, Mr. Chairman, and to your committee, for the time allotted to me and for permitting me to be heard.

Mr. HINSHAW. Thank you, Mr. Freedman.

Before going further, will you tell me for whom you spoke who is on this list? As I would presume, you would know about this list of persons who are here to testify.

Mr. FREEDMAN. The retailers, sir.

Mr. HINSHAW. Well, how many does that include? Does Mr. Bell want to speak?

Mr. BELL. I do.

Mr. HINSHAW. Mr. O'Brien?

Mr. O'BRIEN. Yes, sir.

Mr. HINSHAW. Mr. Kushel?

Mr. ROVINS (Leonard Rovins, general counsel, National Retail Dry Goods Association). Mr. Kushel asked that his statement be filed, sir.

Mr. HINSHAW. All right. We will file his statement at the conclusion of this gentleman's statement.

Mr. ROVINS. I think the clerk has a copy. That is Kushel of the Textile Distributors Institute.

(The statement referred to follows:)

STATEMENT OF ELY KUSHEL ON BEHALF OF THE TEXTILE DISTRIBUTORS INSTITUTE, INC., IN SUPPORT OF H. R. 3851 AND H. R. 4159

My name is Ely Kushel. I am an associate of the law firm of Weil, Gotshal & Manages, 60 East 42d Street, New York City, and 927 15th Street N. W., Washington, D. C. Our firm is counsel for the Textile Distributors Institute, Inc., whose office is located at 469 7th Avenue, New York City. We have been requested by the association to make this statement on its behalf supporting favorable consideration of H. R. 3851 and H. R. 4159 and urging the earliest possible enactment of this legislation.

The Textile Distributors Institute, Inc., is a trade association comprised of firms engaged in the converting of textile fabrics manufactured principally from synthetic or so-called man-made fibers. For the information of the committee, the function of the converter in the marketing of textiles is to transform grey unfinished piece goods into finished fabrics for use in the manufacture of other articles. The converter buys the fabric in the gray or unfinished state from the weaving mill. Based upon his own conception of fashion requirements or the specifications of his customer, the converter will arrange to apply particular colors and design to the fabrics and also to have the fabric treated to provide certain characteristics and effects. The application of the color, design, and finishes is customarily performed by an independent printing, dyeing, and finishing plant under contract with the converter.

The principal use of the finished fabrics handled by members of this association is in the manufacture of dresses.

As an indispensable link between the weaver of the fabric and the manufacturer of articles of wearing apparel, the converter has a direct and significant interest in the promulgation of the particular legislation before this committee.

The membership of this association applauds the objective of legislation to prohibit the manufacture of and use in wearing apparel of highly flammable fabrics. The members of this association have voluntarily subscribed to the Commercial Standards of Flammability 191-53 promulgated by the Secretary of Commerce effective January 30, 1953, and are confident the finished fabrics which they distribute equal or exceed these standards. Ordinarily, no further compulsion for compliance might be warranted. However, to the extent that the public interest must be protected against the assaults of the unscrupulous dealer, such legislation becomes necessary. Furthermore, there is also a selfish con-

sideration on the part of the members of this association to the extent that their good will and prestige might be seriously affected by a recurrence of the disasters resulting from highly flammable apparel.

The enactment of Federal legislation at this time also becomes compelling because of the diversity of local legislation already in effect or pending. The evils attendant upon separate local legislation are apparent with different test methods, variable standards and regulations, and different enforcement agencies. This situation becomes especially acute in the case of the textile and apparel industries where their products are distributed throughout the United States and are offered for sale at retail in every city, town and village in the country. Federal legislation is essential to avoid chaos and disruption to commerce and to provide complete uniformity in administration and enforcement.

We endorse specifically H. R. 3851 and H. R. 4159. We feel that it is indispensable to such legislation that the standard of flammability be set out in terms which are clear and understandable to members of the affected industries. The provisions of Section 4 of each bill in relating the standard of flammability to Commercial Standard 191-53 as promulgated by the Secretary of Commerce accomplish this objective admirably. The test methods and standard prescribed in these standards were evolved after long and careful study and consultation with industry. Apart from the fact that they represent an objective and accurate procedure, they are also well understood by industry.

I should like to comment on two other features of these bills.

First, under Section 8, provision is made whereby a person shall be relieved of the penalties under the act if he has received a guaranty from the manufacturer or supplier of the fabric or wearing apparel to the effect that the fabric is not highly flammable within the meaning of Section 3. We would only suggest that in its report of these bills, the committee indicate that the Regulations of the Federal Trade Commission should establish procedures for furnishing a continuing guaranty covering a specific type or line of fabrics. The report should make clear that the provisions of Section 8 are not intended to be so limiting as to require a separate guaranty in connection with each invoice and shipment of goods. The latter procedure could involve an overwhelming burden.

Secondly, we urge that the suspension of the effective date for a period of twelve months, as provided in these two bills, be retained. This period will be required in order to allow for the liquidation of inventories at all levels of trade. In this regard, it might be noted that the Commercial Standards of Flammability are in effect and being applied so that the interests of the public are protected.

In closing, I must again urge that enactment of this legislation be expedited.

MR. HINSHAW. Is Mr. Fickett present?

MR. FICKETT. Here, sir.

MR. HINSHAW. Does he wish to be heard?

MR. FICKETT. Please.

MR. HINSHAW. Mr. Baker will submit a statement.

Are there any questions to be asked of Mr. Freedman?

Thank you very much, Mr. Freedman, for your presentation. We have accepted Mr. Kushel's statement for the record.

(The following letter was later received from Mr. Freedman:)

MACY'S,
New York, May 1, 1953.

Re voluntary standards and constitutionality

HON. CHARLES WOLVERTON,

*Chairman of the House Interstate and Foreign Commerce Committee,
New House Office Building, Washington, D. C.*

DEAR CONGRESSMAN WOLVERTON: In a way, it was unfortunate that I presented my testimony on behalf of the New York retailers before your committee in your absence.

Since the question of constitutionality had arisen, I wanted to present certain information concerning this matter which I thought would have been appropriate if the question of constitutionality had been directed to me—unfortunately, it was not. I believe that I have certain information which may assist you and your committee in the solving of the dilemma, and I give it to you for what it may be worth.

Section 501 (b) of the Federal Food, Drug, and Cosmetic Act recognizes three sets of standards that are developed by non-governmental agencies as official compendiums. This section further contains the following provision: "Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, except that whenever tests or methods of assay have not been prescribed in such compendium, or such tests or methods of assay as are prescribed are, in the judgment of the Administrator, insufficient for the making of such determination, the Administrator shall bring such fact to the attention of the appropriate body charged with the revision of such compendium, and if such body fails within a reasonable time to prescribe tests or methods of assay which, in the judgment of the Administrator, are sufficient for preparations of this paragraph, then the Administrator shall promulgate regulations prescribing appropriate tests or methods of assay in accordance with which such determinations as to strength, quality, or purity shall be made."

I suggest, therefore, that section 4 (b) of H. R. 3851 be modified to read as follows: "When in his opinion, the commercial standard does not contain adequate test methods, procedures, or standards provided in this act for determining the rapid and intense burning of wearing apparel and fabrics, the Secretary of Commerce shall bring such fact to the attention of the standing committee appointed by him coincident with the establishment of the commercial standard, and if such standing committee fails within a reasonable time to prescribe test methods, procedures, or standards, which in the judgment of the Secretary of Commerce are adequate, then the Secretary of Commerce shall promulgate adequate test methods, procedures, and/or standards which are adequate."

Enclosed is a copy of Pamphlet S. R. A. F. D. C.-1, Rev. 3, entitled "Federal Food, Drug, and Cosmetic Act and General Regulation for Its Enforcement," on page 21 of which is contained section 501 (b) previously referred to (filed with committee).

The official compendiums referred to are the United States Pharmacopoeia, the Homeopathic Pharmacopoeia, and the National Formulary or any supplements to any of them (see sec. 2 (g) of the Food and Drug pamphlet, and sec. 2 (j), p. 4 of that pamphlet. These are voluntary standards.)

Dr. Paul B. Dunbar, then Commissioner of Foods and Drugs, Federal Security Agency, in an address before the United States Pharmacopoeial Convention in 1950, made the following statements. I quote:

"Mr. Walter G. Campbell, then head of the Food and Drug Administration, addressed the 13th meeting of the United States Pharmacopoeial Convention on May 14, 1940. His subject was 'The Relation of the Pharmacopoeia to the Food and Drug Administration.' His address is thoroughly applicable today and I believe should be required reading by those who will guide the work of revision during the ensuing 10 years. Mr. Campbell pointed out that "In a great variety of laws Congress, in order to secure the effects intended, has found it necessary to use agencies outside the legislative branch of the Government by vesting discretion in them to "fill up the details" by determining some fact or by prescribing administrative rules and regulations." The Supreme Court has said:

"Indeed, it is not too much to say that a denial to Congress of the right, under the Constitution, to delegate the power to determine some fact or the state of things upon which the enforcement of its enactment depends would be to stop the wheels of government, in the conduct of public business."

"The legislative cannot undertake to deal adequately with the details of the innumerable complex scientific questions involved in establishing legislative standards for food and drug products * * *."

"There is no other instance within my knowledge in which a nongovernmental organization has been authorized by the Congress to establish the basis upon which courts will be called upon to confiscate property or punish individuals. In his scholarly essay on the Development of Pharmacopoeias, Prof. George Urdang says that 'the United States represents the only greater political unit in which the way of preparing a legally recognized pharmaceutical standard has not been dictated by Government rule.'"

"Mr. Campbell pointed out in his address that although statutory checks and safeguards are incorporated in the Food, Drug, and Cosmetic Act for the executive branch of the Government in setting up standards and regulations, no such safeguards are thrown around the pharmacopoeial revision procedure. 'The United States Pharmacopoeial Convention,' says Mr. Campbell, '* * * functioning through its revision committee, is given unlimited latitude in the determination of the manner in which investigations shall be made, facts acquired, notice given,

hearings held, and conclusions announced; and of particular importance, it can decide the degree to which any or all of these considerations shall be expedited.' The value of such freedom of action in the execution of a comprehensive program of work cannot be easily overestimated. But in passing it should be said that the silence of the statute on procedural and review requirements with respect to the formulation of U. S. P. standards does not mean that such activity should or could be carried on without due regard for law. Unquestionably the courts can consider such standards and pass upon their validity. While I know of no case in which a drug standard has been successfully attacked, I am certain that if upon judicial review the standard were shown to be unreasonable, scientifically unsound, or capriciously and arbitrarily arrived at, it would be declared to be invalid."

The Pharmacopeial Convention, which revises and publishes the Pharmacopeia of the United States, is composed of delegates representing colleges and schools of medicine and colleges and schools of pharmacy; State and Territorial medical associations; State and Territorial pharmaceutical associations, and numerous societies, including the American Drug Manufacturers Association; also represented are various Government agencies.

I trust that the above information will be of value to you. If I can be of any further service, please do not hesitate to call upon me.

Sincerely yours,

EPHRAIM FREEDMAN,
Director, Macy's Bureau of Standards.

Mr. HINSHAW. Is Mr. Henry C. Ball here?

(No response)

Mr. HINSHAW. Mr. Donald C. Hays?

**STATEMENT OF DONALD C. HAYS, COUNSEL, SOCIETY OF THE
PLASTICS INDUSTRY, INC., NEW YORK, N. Y.**

Mr. HAYS. Here, Mr. Chairman.

Mr. HINSHAW. Have you a statement that you want to present?

Mr. HAYS. Yes, I do, sir, if you please.

Mr. HINSHAW. Are copies available?

Mr. HAYS. Copies have already been distributed, I believe.

Mr. HINSHAW. I will have to ask you to be as concise as possible. We have heard some arguments. If there are any new arguments, we want to hear them. Repetition is not going to add to the proceedings at the present time.

Mr. HAYS. I shall keep it down, Mr. Hinshaw. It is only three pages, and I will skip right along.

My name is Donald C. Hays. I am counsel for the Society of the Plastics Industry.

The Society of the Plastics Industry, Inc., is a national technical society, a trade association composed of members from all parts of the country who manufacture plastics materials or process them.

The Society is composed of over 700 company members. The membership of the Society includes large, small, and medium-sized companies. The membership consists of firms which are the leading producers of plastic raw materials and plastic products within the plastics industry in the U. S. A.

A number of plastic manufacturers produce plastic film by calendering, casting, or extruding which in turn is used in the manufacture of various articles of wearing apparel such as raincoats, capes, hoods, pants and aprons. This accounts for our interest in legislation governing the movement of inflammable fabrics in interstate commerce.

It is estimated that the production of vinyl film and sheeting has increased from 15 million pounds in 1945 to 400 million pounds in 1952.

While all of this material did not go into wearing apparel, it demonstrates the rate of growth of the industry and in turn reflects the proportionate increase in use of these materials for apparel.

In March 1947 when the Congress had up for consideration a similar measure, Foster D. Snell, representing the Society, appeared before the Interstate and Foreign Commerce Committee of the House of Representatives and commented on H. R. 1111 suggesting that certain specific changes be made in that proposed bill.

On May 26, 1952, William T. Cruse, the executive vice president of the Society, appeared in its behalf before the Interstate and Foreign Commerce Committee of the Senate approving S. 2918.

While the Congress took no action at that time on the "textile flammability" legislation in light of the tragic accidents which have occurred in the last several years, the need for such legislation is clearly indicated.

Since 1945, substantial quantities of vinyl film have been made into rainwear and other garments. These have been sold by retailers in every State in the Union. Even though they have been widely used by men, women and children in every corner of the Nation, we have no record of any instance where they caused bodily harm because of their "burning characteristics." Indeed, many of these materials will not support combustion and those that will burn are difficult to ignite and are classified as self-extinguishing.

Nevertheless, a careful study and analysis has been made of the present proposed bills and it is the consensus of opinion of those of us who have studied them that such legislation is desirable. The Society of the Plastics Industry is conscious of the need of such legislation. It feels that these bills fulfill the requirement. It is particularly desirable from the standpoint of all concerned that any legislation affecting this subject be national in its scope, rather than to have local legislation by the several States. Lastly, in light of the fact that the bills define the term "commercial standard" as a trade standard for flammability established according to the procedure of the Department of Commerce, it is felt that proper and adequate tests will be given to the several materials covered by the act. The Society of the Plastics Industry has recently promulgated through the Department of Commerce, a commercial standard for vinyl plastic film TS-5065 which includes a test of standard of flammability. The standard has been accepted by more than 65 percent of the industry and so will ultimately receive a permanent designation.

The Society, therefore, feels that the proposed legislation provides every possible precaution to safeguard the public's welfare and provides manufacturers and converters of materials covered by the proposed bill with a tool to measure the suitability of material used in wearing apparel.

Now, I believe the committee has asked: What would the feeling be of certain segments of the industry if, in taking these last three bills, you just adopted 4 (a). The Society of the Plastics Industry would approve of that, that is, with the omission of 4 (b), if, however, you would be good enough to consider adding to the words, adding to 4 (a), "or in any other applicable commercial standard promulgated by the Secretary of Commerce."

Now, the point in that is this, gentlemen. The emphasis so far has been on, and in fact you have only heard about, one standard, and that

is the standard of flammability of clothing textiles. Now, the Society of the Plastics Industry, and particularly the manufacturers of vinyl sheeting, decided that the test of flammability as applied to vinyl sheeting was not sufficiently rigid. There wasn't a high enough standard. So that is why we have worked out a greater standard, and that standard has been accepted. And we also want to keep out the fly-by-nighter and the guy who is operating on the outside of the fringe, and that is why we do feel that the standard should not be limited just to the one standard of flammability of clothing textiles. There may be other materials invented as time goes on, which should have their own commercial standard, that is, the applicable standard.

Mr. HINSUAW. Thank you, Mr. Hays.

Are there any questions? Mr. Heselton?

Mr. HESELTON. I regret I was called out, so that I did not hear your full statement, but I think you are dealing with a matter that I wanted someone to discuss briefly. When our colleague, Mr. Johnson of California, was before the committee, he submitted two letters, both dated in April of 1952, from the State fire marshal of California. They are rather long, so that I would like to try to pin it down.

They have their California law, which he indicates with some statistics has been working out quite satisfactorily. But he did point out certain things that are of interest. Perhaps I could read these two paragraphs.

Referring to the standard that had been submitted by Mr. Buck to him, in a letter dated March 25, 1952, he says that these proposed standards go into considerable detail on the classification of materials from a standpoint of flammability but they will not classify a material as being "highly flammable" or displaying "rapid and intense burning" unless the fabric burns the 5 inches in less than 4 seconds on a 45° angle, and even then the material must ignite. A very serious weakness in the standard, he says, is the total lack of any method of determining the low ignition hazard of certain types of wearing apparel materials. [Reading:]

I refer to such materials as unsupported plastic film and plastic coated fabrics, such as were sold promiscuously in California prior to the adoption of our standards, and which resulted in the deaths of several children. I have knowledge of several different materials of this type which would be extremely hazardous; yet these commercial standards do not classify them as exhibiting "rapid and intense burning."

Do I understand that in California this particular material described as unsupported plastic film and plastic coated fabrics was included in the standards they had there?

Mr. HAYS. I know nothing about the California Act or the method of standards, but I think that that does point up the thing that the plastic industry is trying to get at, namely, that we do not think that the tests of flammability for ordinary clothing textiles go far enough, as far as plastics are concerned. And that is why we have devised our own standard, which is more rigid. We feel that the public gets greater protection if plastics have an even more rigid test, which is the one that the Department of Commerce has accepted and is now known as TS-5065. It is just waiting for final approval by industry.

Mr. HESELTON. I have found now the paragraph specifically on H. R. 3581, in which he writes:

H. R. 3581 turns over to industry the full authority to set the flammable wearing apparel standards, and once they are established industry will be well protected against lawful suits by wearers of such wearing apparel, but I do not think the standards will provide for the safety of the general public. The commercial standards referred to in H. R. 3581 are considerably below the California standards, and they do not provide any standards whatever to govern the sale of highly flammable plastic film or highly flammable plastic coated fabrics.

He goes on to say that these standards do not even set up a procedure for testing plastics and plastic coated material.

As I understand your statement and the fact that you are appearing for the Society of the Plastics Industry, I would think that your answer to the criticism of the State fire marshal would be very interesting and very important.

Mr. HAYS. Well, that is the whole point that I am trying to make. Under 3851, you say that the standard of testing is going to be the flammability of clothing textiles, Commercial Standard 19153. Now, you go on in section 4 (b) and say that not only in cases of revisions or amendments will the Secretary of Commerce have the right to move as he did in originally adopting standards, but, as the language goes on to say, "and/or any new applicable commercial standard." Now, the whole point of that is that when you have got plastics which are not properly tested by the fabrics standard of testing, it gives a new test; that is, the test that is adopted by the people who are manufacturers of vinyl film.

Mr. HESELTON. Who are what?

Mr. HAYS. Who are manufacturers of vinyl film. Now, we have adopted a more stringent test, a test which will meet the criticisms of the fire marshal out in California. That is why I say, sir, that I don't think you go far enough when you limit all the wearing apparel just to the test as set forth in Commercial Standard 19153.

Mr. HESELTON. Then do I understand that you think it ought to be broadened to include plastics?

Mr. HAYS. No; I say use a separate standard to test plastics. Such a standard has been adopted. It is still in the temporary number form. The Secretary of Commerce has done everything now except to assign it a permanent number.

Mr. HESELTON. That is, it has been developed?

Mr. HAYS. It has been developed.

Mr. HESELTON. To the point where it could be promulgated?

Mr. HAYS. It has already been promulgated. It has even been accepted by 75 percent of the industry.

Mr. HESELTON. It seems to me that the fire marshal of California is making a very strong criticism of this act because it does not include, possibly, the control of that particular type of wearing apparel. You leave me with the impression that it is almost ready to go on the books, so to speak, and that the tougher test probably would be more satisfactory.

Mr. HAYS. I say that the fire marshal is wrong, because 4 (b) provides for just this thing, when it says "and/or any new applicable commercial standard." And that is what we have developed. Now, if you just stop with 4 (a), then his criticism is good.

Mr. HINSHAW. Mr. Heselton, what is the date of that letter?

Mr. HESELTON. The first letter that I quoted from was one from him to Mr. Erman, of the Commodity Standards Division of the Department of Commerce, dated April 22, 1952. The second letter is a letter to our colleague, Congressman Johnson, dated April 7, 1953. And the second letter was the specific criticism of that portion of the bill.

Mr. HINSHAW. And what is the date of the establishment of your temporary standard?

Mr. HAYS. The establishment of the temporary standard is dated November 18, 1952, but I do not think that the fire marshal has cognizance of this, because it has not yet been adopted as a commercial standard. Now, with its adoption, I say, and if the committee sees fit to put in more than just one standard in its bill, you meet the criticisms of the fire marshal.

Mr. HINSHAW. Any other questions?

If not, we thank you very much for your presentation, Mr. Hays.

Mr. HAYS. Thank you very much, Mr. Hinshaw, Mr. Wolverton, and the other members of the committee.

Mr. HINSHAW. We will insert in the record at this point the statement by Mr. Kreeger on behalf of the Silk and Rayon Printers and Dyers Association of America, Inc.

(The statement referred to is as follows:)

STATEMENT OF SILK & RAYON PRINTERS & DYERS ASSOCIATION OF AMERICA, INC.,
ON H. R. 2768, H. R. 3851, and H. R. 4159 (THE FLAMMABLE FABRICS ACT)

SILK & RAYON PRINTERS & DYERS ASSOCIATION OF AMERICA, INC.,
New York 18, N. Y., April 28, 1953.

The Silk & Rayon Printers & Dyers Association of America, Inc., is composed of approximately 125 concerns engaged in the printing, dyeing, bleaching, and finishing of silk, rayon, and other synthetic fabrics. The association is commonly regarded as the spokesman for the silk and rayon finishing industry.

The association fully supports the underlying objective and purpose of the Flammable Fabrics Act, namely the protection of the public in connection with flammable articles of wearing apparel and fabrics.

Each of the bills mentioned above contains a provision (sec. 11) which is designed to exclude finishers from the operation of the act, except where they "cause any article of wearing apparel or fabric to become subject to this act contrary to the terms of the contract or commission service." It is the understanding of the association that section 11 of these bills is intended by the sponsors and by this committee to exclude from the scope of the act all finishers who carry out the instructions or directions of their customers, as required by the terms of their contract or commission arrangement, and that it is only when a finisher causes an article of wearing apparel or fabric to become flammable contrary to the terms of the contract or commission arrangement with his customer, that the finisher becomes subject to the operation of the act. On that understanding, the association supports the exclusionary provision in section 11 as applied to finishers.

It is reasonable and necessary to exclude finishers from any responsibility under the act so long as they carry out their customers' instructions. The finisher does not own the fabric which he processes, and has no control or voice in the finishing process which he is required to perform on a commission basis. The finisher receives his directions and instructions from his customer, usually the converter who owns the goods, and is required to comply with those instructions. So long as he does so, he should be excluded from any liabilities or obligations under the act.

SILK & RAYON PRINTERS & DYERS ASSOCIATION OF AMERICA, INC.,

By DAVID LLOYD KREEGER,

Washington Representative, 516 Investment Building, Washington 5, D. C.

The CHAIRMAN. Now I would like to get some understanding of who remains to be heard. Is Mr. Henry Miller present?

Mr. MILLER. Present.

The CHAIRMAN. I think it would be appropriate for the committee, now that we have given so much time to the objectors, especially on these questions that involve constitutional questions, for us to hear something from the standpoint of the Government agencies who object to the legislation. To hear from them will enable us, I think, to examine any further witnesses that may be present, and it will also give such witnesses the opportunity of hearing what the Government's view is on these matters. So, taking it all together, it would seem to me to be helpful to the committee to hear at this time, Mr. Henry Miller, Assistant General Counsel of the Federal Trade Commission.

Before you commence: Is it your intention, Mr. Miller, or that of the representative of the Department of Commerce, to introduce the standard of flammability of clothing textiles which has been adopted as of January 30, 1953?

**STATEMENT OF HENRY MILLER, ASSISTANT GENERAL COUNSEL,
FEDERAL TRADE COMMISSION, WASHINGTON, D. C.**

Mr. MILLER. It is, Mr. Chairman. I have a copy here.

The CHAIRMAN. I just call it to your attention, so that either you or the representative from the Department of Commerce at some appropriate place in their remarks will make it a part of the record.

Mr. MILLER. There are representatives of the Commerce Department here who have been in the work of adopting that standard, and they are prepared also to insert it in the record.

The CHAIRMAN. I assume they will produce it, then.

Mr. MILLER. The Federal Trade Commission has sent to the committee reports on H. R. 2768, H. R. 3851, and H. R. 4159. We have not sent up a report specifically on H. R. 4500, but wish to say that, that being an identical bill with H. R. 4159, our report for that bill will serve on the other also.

First, I should like to say on behalf of the Commission that the problem to which the proposed legislation is directed has been the subject of much attention by the Commission under the Federal Trade Commission Act. We have expressed our views that there is need to make provision for more adequate protection of the public against the dangers arising from the marketing of textile merchandise of highly flammable character.

Published information available on the subject is full of references to horrible burnings that members of the consuming public have suffered when highly flammable textile products accidentally caught fire.

The CHAIRMAN. Mr. Miller, as you go through your statement, will you endeavor to conserve our time by leaving out such material as you feel will be sufficient to have printed in the record, and emphasizing the points that you have heard under discussion? Your entire statement will be made a part of the record.

(The statement referred to is as follows:)

STATEMENT BY HENRY MILLER, ASSISTANT GENERAL COUNSEL, FEDERAL TRADE COMMISSION ON FLAMMABLE FABRICS BILLS

Mr. Chairman and gentlemen of the committee, the Federal Trade Commission has sent to the committee reports on H. R. 2768, H. R. 3851, and H. R. 4159 in response to communication from the chairman. It shall be my purpose, with your permission, to go over the several points covered in the Commission's comments.

First, I should like to say the problem to which the proposed legislation is directed has been the subject of much attention by the Commission under the Federal Trade Commission Act. The Commission has expressed its view that there is need to make provision for more adequate protection of the public against the dangers arising from the marketing of textile merchandise of highly flammable character.

Published information available on the subject is full of references to horrible burnings that members of the consuming public have suffered when highly flammable textile products accidentally caught fire. I have here a compilation of quite a number of such burnings. It is in the form of a chart and consists of information as to many of the specific instances of burnings or casualties which were referred to in the hearings before Congress in 1947 and 1952. The compilation covers over 150 individual cases of personal injuries. In some 45 of the instances listed the burnings resulted in death of the victims. Extensive hospitalization was required, and among those that have survived, it appears many were left disfigured and maimed. The chart shows, to the extent available, whether the victim was a man, woman, or child, where the accident happened, what the article of clothing or other article was that ignited, how it was ignited, and the injury or fatality suffered. The flammable materials involved were such articles as dressing gowns, dresses, apron material, plastic raincoats, child's Indian costume, bathrobe, pajamas, Halloween suit, hair combs, buttons, sweaters, children's cowboy play suits and raincoats.

In addition to the 45 instances in which the burns were fatal, other victims are reported to have suffered such personal injuries as disfiguring scars and inability to continue profession; third-degree burns, first-degree burns, and second- and third-degree burns. Those who suffered death included teenage girls, women, 4- and 5-year-old children, men, a young mother, and 23 percent of the group of 150 hospital cases comprised of children under 12.

The compilation is marked No. 1 for identification, and I shall be glad to submit it for the information of the committee.

I also have here a somewhat similar compilation in the form of a chart, marked No. 2, listing complaint matters that have come to the Federal Trade Commission during this past year in regard to the alleged sale of highly flammable and dangerous textiles. This chart shows the kind of product involved, the city in which it was produced or found, the type of business conducted by the vendor and the type of action taken. It is likewise made available for the information of the committee.

During the space of about a week in January 1952 there came to us a number of newspaper items on the so-called flammable sweater burnings which were happening in different parts of the country at that time. Here is a one-page résumé of these items which I present, Mr. Chairman, for such use as you may deem helpful.

The great hazards to which the public has been exposed through the sale to consumers of highly flammable textiles without warning of their dangerous character fully establish the need for action to control the menace involved. The need is for legislation to provide an adequate preventive; that is, a means for keeping the hazardous products from reaching the market place, thus forestalling the dangers arising from their harmful potentialities. In its general purposes the proposed legislation before the committee is aimed to afford that protection. However, to reach such desirable ends there are several points in the legislation which we feel need careful attention. These points are as follows:

LIMITATION AS TO PRODUCTS COVERED

In their scope the bills as presently written apply only to articles of wearing apparel intended to be worn by individuals, subject to certain specified exemptions, and to fabric intended or sold for use in wearing apparel, subject also to certain specific exemptions. The provisions controlling the scope of the legislation are set out in sections 2 (d), (e), and (f). By limiting it to articles

of wearing apparel and to fabrics intended therefor, there is completely excluded from the legislation such items as bed blankets, lap robes, bedspreads, upholsteries, draperies, stuffed toys, rugs, and household textiles generally. These household textiles are of daily use in the home and come necessarily in close contact with the person, including children and elderly individuals, as well as middle-age members of the family. They can be made of highly flammable textiles and involve great danger of serious personal injury. They are, however, excluded from the bills as presently written.

In its report the Commission has expressed the view that these additional items of household textiles when made of dangerously flammable materials should not be excluded unless the committee prefers to have them treated in separate legislation. It also commented to the effect that this might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

A further exemption is provided in section 2 (e) for fiber filament and yarn. This exception would exclude such things as hand knitting yarns which are extensively made into garments in the home. Fiber filament, if I correctly understand what is meant by that term, is used in costumes for children and adults, and generally speaking can be highly flammable and dangerous. The whiskers on a Santa Claus mask, the imitation pigtailed often worn by children, the chaps which are attached to cowboy play suits, appear to me to be specific uses of textile material falling within the term "fiber filament." Such would, therefore, be exempt from the law although they can be extremely flammable and dangerous to the individual.

On this point the Commission has likewise expressed the view that the exception of fiber filaments and yarns in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

STANDARD OF FLAMMABILITY

The next subject to which I desire to refer relates to the test standard for determining the lawful or unlawful character of the product under the legislation. The bills by reference incorporate a test standard and procedure which shall be binding and determinative of whether an article coming within the scope of the law exhibits such rapid and intense burning as to be dangerous when worn by individuals. If the product passes this test if may be placed on the market and sold without restrictions. If the textile, however, fails to pass the test, then it is to be excluded from the market. In other words, this test standard becomes conclusive of what shall be considered good and of what shall be considered bad under the act.

In these circumstances the efficacy of the entire legislation depends upon whether the test standard sanctioned by the bills is a good one from the standpoint of correctly evaluating the hazards to which the public is subjected by the flammable merchandise, and whether the test is adequate to rule out those that in fact are so highly flammable as to cause the sever casualties against which the legislation is aimed to afford protection.

Flammability standard in H. R. 2768.—With reference to this subject, section 4 of the H. R. 2768 (the Wolverton bill) provides that the Secretary of Commerce is "authorized and directed to establish test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics" and to promulgate them by publication in the Federal Register. The section also provides that "no such test method, procedure, or standard shall be established or promulgated by the Secretary of Commerce unless, in his opinion, such test method, procedure, and standard are adequate for the protection of the public interest." It is further provided, according to the evident intent of the last paragraph of section 4, that "until the Secretary of Commerce shall promulgate applicable test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics," the commercial standard CS 181-53 shall be used. Therefore, such standard meanwhile becomes necessarily the conclusive test of dangerous flammability.

The net effect of this section, it appears, requires the establishment by the Secretary of Commerce of the test standard which he determines or finds to be "adequate for the protection of the public interest." We believe this is the proper criterion which should be met by any test method which is sanctioned by a

statute. However, the same criterion should be applied to commercial standard CS 191-53 and such determination should be made before that standard, which is only a voluntary trade agreement, receives anything more than temporary statutory approval for such period of time as may be necessary to enable the Secretary of Commerce and the National Bureau of Standards to survey the question and reach an official determination as to whether the commercial standard is adequate for the due protection of the public interest; and if not, to apply whatever modification or strengthening is needed to make it adequate for such due protection. Only a test standard that is properly determined to be adequate to afford this protection should be finally approved and required by the act. Subject to such determination and with completion of the last sentence in section 4 of the Wolverton bill, H. R. 2768, we regard that section to be satisfactory and preferable.

Flammability standard in H. R. 4159 and H. R. 3851.—In H. R. 4159 and H. R. 3851, however, the provisions of section 4 regarding the standard of flammability are materially different from the corresponding provisions of the Wolverton bill, H. R. 2768, which I have just described. In H. R. 4159 and 3851 the commercial standard CS 191-53 is required to be used and the Secretary of Commerce may not modify or supplement such test method, procedure, and standard even though he finds the protection of the public interest requires it, unless he obtains the agreement or consent to the modification or supplementing provisions by 65 percent or at least by a majority of the industries concerned. This is due to a requirement that is applicable in the presently existing commercial standard procedure which H. R. 4159 and H. R. 3851 specify must be followed.

Under the changed provisions, therefore, as expressed in the latter bills the criterion of what is necessary for due protection of the interest of the public is limited and controlled by what the industry will consent to. Such presents a most unusual situation wherein the application of a criminal or penal statute, as is here involved for control of an industry's dangerous merchandise, is restricted to that which such industry will agree or consent to. Regulations having the force of law are not and should not be dependent upon the consent or agreement of the regulated.

The commercial standard CS 191-53 specified in section 4 of these bills presents extremely technical and complicated procedures which appear to draw the line of demarcation between the good and the bad so closely as to leave little or no margin of safety.

The test standard provides that if after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45-degree angle in a draft-proof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of the law. Thus it will be seen the line is so finely drawn that one second or even a fraction of a second of burning determines whether or not the article is illegal as dangerously inflammable.

Further, the provision that the fabric undergoing test shall first have been dry-cleaned and washed would appear to introduce a factor not comparable to consumer experience in view of the fact that garments are used by the individual for considerable periods of time before ever having them dry-cleaned or even washed. Dry cleaning and washing tend to reduce the flammable character of the product. Consequently, it seems certain that various fabrics will pass the test because of the dry cleaning and washing whereas if they were put in the tester before such dry cleaning or washing they would not pass but would exhibit rapid and intense burning and be highly dangerous.

These conditions present very material factors as to efficacy of the test and whether it is realistic as a means of fairly evaluating the conditions which the consumer encounters in his normal use of the merchandise.

We believe that the Secretary of Commerce who has available the necessary technical facilities of the Bureau of Standards is the proper governmental authority to make such determination as to adequacy of the test. This finding should be made by governmental authority as assurance that what the legislation requires will afford reasonable protection against flammability that is so dangerous as often to be fatal. As previously indicated, until it is made officially from the standpoint of the public interest the bill in my opinion should not approve the commercial standard except possibly for a temporary period and subject to authority in the Secretary of Commerce to examine the matter, to hold hearings if necessary, and to make such additions or changes in the test standard as he finds necessary to make it reasonably adequate. In its report on this point the Commission has stated:

"We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. * * *

"We regard the necessity of making this finding of adequacy in the public interest as highly important.

"The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative."

GUARANTY

The next problem, involving questions of very deep concern, relates to the guaranty which the cloth manufacturer or other source may issue if he so desires, and which when issued confers immunity, directly or by subsidiary guaranties, upon all those in the trade who subsequently handle or distribute the merchandise, and through whom it reaches the consumer. The guaranty provisions are found in section 8 of each bill. Those in H. R. 4159 and H. R. 3851 differ materially from the corresponding provisions of the Wolverton bill, H. R. 2768. Under the latter the guaranty, issued at the option of the guarantor, shall be to the effect that the product guaranteed "is not so highly flammable as to be dangerous when worn by individuals under the provisions of this act." The garment manufacturer and distributor receiving such guaranty may rely thereon in good faith and, in turn, may issue similar guaranties to their customers. In this chain action the garment maker, the jobber, the distributor, and the dealer may be guaranteed on the basis of the one issued by the original producer of the fabric, and such will accord immunity to all those in the trade from any liability under the act in the event the fabrics or garments made therefrom prove to be highly flammable and dangerous under the standards specified by the statute.

Such is the substance of the guaranty provisions of the Wolverton bill, H. R. 2768, which is also the same in substance as appeared in the original Canfield bill; namely, H. R. 389.

Wolverton bill guaranty preferable.—We believe these guaranty provisions of H. R. 2768, also contained in H. R. 389, to be reasonably safeguarded against abuse and to be satisfactory, subject, of course, to the deletion from section 8 (a) of 2768 of the following from lines 5 and 6 on page 10: "Under the presently existing procedures for the establishment of commercial standards." These words are superfluous and, moreover, are entirely out of place. With this correction, the guaranty provisions of the Wolverton bill, H. R. 2768, are in conformity with the guaranty provisions found in the Wool Products Labeling Act of 1939; the Fur Products Labeling Act; and the Food, Drug, and Cosmetic Act.

Guaranty under H. R. 3851 and H. R. 4159.—In the later bills, however, H. R. 3851 and H. R. 4159, the guaranty provisions have been materially changed, and as such they present very serious questions. These questions arise because of the following:

(1) The guaranty there specified would allow certain highly flammable and dangerous fabric material and clothing made therefrom to be marketed to the unsuspecting public under a guaranty indicating safety.

(2) The powers of enforcement against issuance of a false guaranty have been weakened and qualified to such extent as to be impracticable; hence are inadequately effective.

Preliminary to an explanation of these provisions, I wish to say it is, of course, desirable that those dealers, distributors, and processors who handle the products in good faith and in the belief they are safe shall have an opportunity to secure from their supplier a guaranty relieving them of responsibility for passing along in the channels of trade fabrics or garments that are highly flammable and dangerous, especially when they have no reason to suspect that there is anything wrong with the merchandise. It is also not seriously objectionable to require the enforcing authority to apply the law only to the original interstate sources of the dangerous product. When, however, such widespread immunity is accorded by the guaranty all down the line to those promoting and selling merchandise which turns out to be hazardous, it is more important than ever to be sure the enforcing authority has the power, free from doubt and sufficiently adequate, to effect a cure of the evil by taking action against the party who gave birth to the dangerous article or first introduced it into trade.

However, the changed guaranty provisions found in H. R. 3851 and H. R. 4159 not only accord the immunity to all after the original producer of the fabric but also reduce the substance of the guaranty and the enforcing provisions respecting it to such a point as to leave the door open to abuse, and with rather impracticable enforcing power. This situation is due to several factors.

Under the Wolverton bill, it will be noted, the guaranty must be to the effect that the product "is not so highly flammable as to be dangerous when worn by individuals under the provisions of this act." On the other hand, the language in H. R. 3851 and H. R. 4159 requires the guaranty merely to be to the effect that "reasonable and representative tests" have been made of fabric of the type covered by the guaranty and that these tests had been passed.

Fabrics are made in bolts of hundreds of yards, and it is quite well understood that the cloth in different parts of the bolt will pass the test while the fabric at other locations or parts of the same bolt of cloth will not pass but will be highly flammable and dangerous under the standards set up in the bill. In such circumstances, it is plain that garments made of those sections of the cloth that would fail to get by, had they not escaped the tests made, will nevertheless reach the consumer under the guaranty which is indicative of safety. That kind of situation may serve to entrap the consumer into a sense of false security besides providing immunity throughout the channels of trade, with no responsibility even on the original producer except to show that within the confines of his factory or elsewhere he had subjected cloth of the same type as that in question to "reasonable and representative tests." Furthermore, the question of what shall constitute reasonable and representative tests is left unresolved and would undoubtedly become a subject of contest and extended debate in virtually every enforcement case.

These various factors not only weaken the enforcing authority, increase the time and expense required in handling each case, but also make it virtually inevitable that a certain amount of highly flammable and dangerous clothing will reach the market and the consumer as guaranteed merchandise.

The guaranty, issuance of which is optional with the manufacturer, should be unequivocal and should not be allowed to cover any part of a lot of garments or fabrics that may not be up to the minimum standard but highly flammable and dangerous. Much might be said to the effect that even a product which is so close to the danger line as to involve serious doubts of its safety should not be allowed to go to the trade and ultimately to the consuming public as guaranteed goods. It should undoubtedly be deemed by manufacturers to be required practice to make goods that allow for a margin of safety rather than approaching the borderline.

The further question which H. R. 4159 and 3851 presents lies in the change of the enforcement provisions against issuance of a false guaranty. In these latter bills paragraph (b) of section 8 has been removed; also reference to that paragraph has been removed from section 7. The eliminated paragraph (b) of section 8 had made the issuance of a false guaranty subject to a cease-and-desist order of the enforcing agency. The reference to section 8 (b) which also had been eliminated from section 7 made it a misdemeanor to "willfully" issue a false guaranty. However, in lieu of these enforcement provisions a new clause was inserted in section 5 (b) to the effect that the enforcing authority may issue a cease-and-desist order against an offender for "knowingly issuing a false guaranty under section 8."

Under these changes no action can be taken by the enforcing agency against one who has issued a guaranty that proves to be false unless it can prove that the party "knowingly" issued or "willfully" issued a false guaranty. Moreover, it would be practically impossible to prove the falsity of the guaranty because such would require proof that the guarantor did not somewhere at some time run samples of his product through the testing apparatus and consider them as having passed.

The bills do not require anyone to issue a guaranty. It is entirely optional with the manufacturer or would-be guarantor as to whether he will issue such an assurance of safety of his product. If he feels that some or all of his goods are not sufficiently safe or are of doubtful safety, he need not and should not issue a guaranty. He is not required to provide one under any circumstances. On the other hand he can, if he so desires, issue a guaranty and be perfectly safe by constructing his cloth in such a way to keep it out of the dangerously flammable class or even out of the dangerously doubtful twilight zone. If he makes cloth of dangerous or questionable safety, he can do what many are reported as doing; namely, give it a fire-resistant treatment which will remove

it from the hazardous class. However, to permit a guaranty to be issued on goods that are in any part unsafe or of doubtful safety under the standard of flammability might result in tragic entrapment of consumers.

In light of the difficulties respecting the guaranty section written into H. R. 4159 and H. R. 3851, the Commission stated in its report that it believes the guaranty section as set out in the Wolverton bill, H. R. 2768, and the earlier Canfield bill, H. R. 389, to be preferable. It accordingly suggested that such language of section 8 of the Wolverton bill be used with, however, omission after the word "establishes" of the inapplicable clause, "under the presently existing procedures for the establishment of commercial standards."

In line with this recommendation the Commission also suggested that the designation "or 8 (b)" be restored to section 7 immediately after the clause, "Any person who willfully violates Section 3." Correspondingly, the designation "or 8 (b)," it was stated by the Commission, should also be inserted in section 5 (b) in lieu of the clause "or from knowingly issuing a false guaranty under section 8."

With such amendments the guaranty, as heretofore indicated, will be in harmony with similar provisions enacted in the Wool and Fur Products Labeling Acts, also the Food, Drug and Cosmetic Act.

EXCLUSIONS

Next it is noted in section 11 of the Canfield and Johnson bills, H. R. 3851 and H. R. 4159, that there is provision for the exclusion from the law of sales of highly dangerous and flammable fabrics and wearing apparel made for export from the United States to any foreign country when in accordance with the specifications of the purchaser. This presents some question of policy as to whether or not the American Government should put itself in the position of saying that highly dangerous and flammable goods shall not be sold in the United States because they are unfit for American consumers but may be sold abroad for use by citizens of other countries. Our Commission has not undertaken to make any representation in regard to this question of policy. I merely mention it here to bring it to the minds of the committee members for such consideration as they deem appropriate. If dangerously flammable fabrics were shipped out of the country to be made into clothing and in that form brought back into the United States, a problem of some difficulty might arise as to possibility of detecting such shipments and excluding the articles before they become disseminated in the trade.

NEED FOR SUPPLEMENTING EXISTING LAW

There remains a further point that may be helpful for me to touch upon. It is the question of the limitations of the present powers of the Federal Trade Commission which make it necessary to have additional legislation. The Commission under its organic act is empowered to take civil action against the use in interstate commerce of unfair and deceptive acts or practices. It may, under that provision, investigate cases coming to its attention; and, on the basis of the facts gathered, it may issue formal complaints against an alleged offending party when it determines that such action is necessary in the public interest. Unless the issues are disposed of by consent of the parties, trial and hearing on such formal complaints must be held; and, upon final determination on the evidence, the Commission may issue a cease-and-desist order against the offender when it concludes that the facts established justify such an order under the law. These orders are subject to court review, also to enforcement by the court after they become final.

A number of cases have been proceeded against in the Commission respecting fabrics and garments made of highly flammable and dangerous textiles because of the deception and unfairness involved in the sale of such merchandise to purchasers who are not aware of their dangerous character. This type of corrective presently available, it will be noted, can only be exercised after the fact; that is, it can only be applied in the circumstances after the merchandise has gotten out and, generally, has already caused injury to the public. What, however, is needed to bring adequate protection to the public and to scrupulous competitors is legislation of a prophylactic nature, legislation to forestall the introduction into trade of the dangerously flammable textiles.

This line of action will be directed to locking the barn door before the horse is stolen. It is the only way in which an adequate protective can be applied to the situation to shield the public against the possibilities of the burning tragedies of the type that have heretofore taken place. The power to act quickly by injunction and seizure procedure, which the bills before you provide, and to set up a system for preventing dangerously flammable fabrics and merchandise from reaching the market, will afford a needed supplement to existing law. It is this prophylactic character of the bills that, in my opinion, makes them present an approach to the problem which, with the changes we have suggested, will produce satisfactory results. I feel that such legislation will not only be a boon to the consuming public but will also be constructive and helpful to business.

Mr. MILLER. In the interest, therefore, of conserving time, I might just give you an outline of the points that are covered in my remarks, and leave the rest then to questioning.

The CHAIRMAN. Now, I do not want you to feel constrained by my remarks to eliminate any argument that you feel is necessary to sustain your position, in view of the attack that has been made by other witnesses.

Mr. MILLER. First, we felt that the committee would like to have a bit of information as to why this legislation is necessary. And I have accordingly prepared a chart, or some information in the form of a chart, based on reports of burnings that have taken place in the past.

This chart states, first, what person was involved, whether it was a child, a girl, a man, a woman, where the accident happened, the type of garment they were wearing, how the product caught fire, where that information was at hand, and some information about the extent of the injury sustained. And with your permission, Mr. Chairman, I would like to offer that compilation for the record.

The CHAIRMAN. It may be made a part of the record.

Mr. MILLER. Thank you.

(The material referred to is as follows:)

Some instances of personal injuries sustained from dangerously flammable textile products as contained in previously published material

Person burned	Place where accident happened	Type of garment	How ignited	Extent of injury sustained	Remarks
Girl, Martha M. Gross	Kansas City, Mo.	Sweater	Spark from match	Illness and disfiguring scars. Impossible to continue profession of stenographer and secretary because of injuries to hands. Pa-thetic.	Rescuing brother and sister also burned.
Doris E. Dittenbach	University of Texas (initiation party).	Cotton dressing gown	Brushed against lighted candle	Died next morning	
Georgia Stevens, 18-year-old co-ed.	Coming-out dance at hotel.	Dress	Accidentally caught fire dancing over cigarette butt on floor.	Severely burned; extended hospitalization.	
Virginia Black		do	Took fire from heated stove.	Both severely burned	
Angelica and Harry Murphy.	Whittier, Calif.	Apron material	Radiant heater	Died from burns	
Mary Lee Cummings, aged 5.	Magnolia, Ark.	Plastic raincape	Can heater in minstrel show dressing room.	do	
Negro woman	Omaha, Nebr.	Grass dress	Lighted jack-o-lantern	Suffered fatal burns	
Child	New Orleans, La.	Indian costume	Caught on fire	Hospitalized, third-degree burns.	
Mrs. Jess Roetenbaugh	Old Greenwich, Conn.	Bathrobe	Ignited by match	Suffered fatal burns	
Man	Portland, Oreg.	Cotton nap pajamas	Caught fire from kitchen range	Died of burns	
Do	Washington, D. C.	Trouser leg	Candle in jack-o-lantern	Suffered fatal burns	
Child	Indianapolis, Ind.	Costume	Sparks from short circuit in light plug.	do	
Woman	Yonkers, N. Y.	Dress	Ignited by jack-o-lantern	Died in hospital	
4-year-old child	Letroit, Mich.	Halloween costume	Tending furnace	Died of burns	
Man	Denver, Colo.	Bathrobe	Standing in front of lighted fire-place.	Suffered fatal burns	
Woman		Clothing.	Crying hair, combs ignited	Suffered severe burns	
Mrs. Booth Tarkington		Hair combs	Sitting in front of chafing dish, buttons exploded.	Died of injuries	
Woman		Nitrocellulose buttons	Open grates; gas heaters; matches; open fires; brush fires.		
150 hospital cases of children under 12; plus about 100 other cases in which the burning of clothing was the main cause of injury.	Questionnaire from various hospitals.	Clothing; cherilles; nap fabric in robes and sweaters; thin-cotol fabrics in raincoats and aprons; fine nets in evening dresses; cow-boy playsuits with chaps of long-napped material.		Hospitalized cases; 23 per-cent of the 150 were fatal. 36 percent of the 37 wearing cowboy playsuits died.	Reported by various hospitals in response to questionnaire of S. H. Ingberg, Chief, Fire Resistance Section of Bureau of Standards.

Man.....	Los Angeles, Calif.....	Sweater.....	Lit a cigarette and front of sweater appeared to explode.	1st degree burns.....	Driving car which jumped curb and collided with telephone pole.
Do.....	do.....	do.....	Lit cigarette which ignited sweater, pullover type.	2d and 3d degree burns.....	Terrible thing, just as if match were thrown into rag soaked with gasoline.
Do.....	do.....	do.....	Lit cigarette.....	Fellow employees saved his life by beating out the flame.	
Small boy.....	Passaic, N. J.....	Cowboy suit.....		Death.....	
Woman.....	Minnesota.....	Pyroxylin buttons.....		Terribly disfigured.....	
Do.....	do.....	Hair comb.....	Candle flame in restaurant.....	Terribly burned.....	
Mother and child.....	Roswell, Ga.....	Chemise bathrobe.....	Sitting in front of fireplace with child in her arms.....	Mother died of burns; saved baby.....	

Source: Hearings before the Committee on Interstate and Foreign Commerce, House of Representatives, Mar. 4 and 5, 1947, on H. R. 505, H. R. 601, and H. R. 1111. Hearing before Committee on Interstate and Foreign Commerce, U. S. Senate, May 26, 1952, on S. 2918.

Mr. MILLER. I have as Chart No. 2 a compilation of the cases which the Federal Trade Commission has had since January 1, 1952, involving highly flammable textiles. There are seven cases that have been litigated, and in virtually all of them corrective action was taken by the Commission in the form of cease and desist orders, or the proceeding is rapidly on the way to final conclusion. This chart also includes quite a number of other instances that have come to our attention, but have not resulted in litigation, for the reason that the matter involved came to an end through some other way.

I offer for the information of the committee this chart No. 2.

The CHAIRMAN. It may be made a part of the record.

(The chart referred to is as follows) :

Investigational matters and cases before the Federal Trade Commission since Jan. 1, 1952, on subject of alleged dangerously flammable textiles

Name of mill or apparel manufacturer	File number	Kind of product or garment	Where produced or found	Action taken
Fisher & DeRitis.....	Docket No. 5944.	Rayon sweaters...	Philadelphia..	Complaint issued Jan. 21, 1952. Order to cease and desist, July 17, 1952.
Bradford Sportswear Co.	Docket No. 5948.	-----do-----	Providence, R. I.	Complaint issued Jan. 24, 1952. Order to cease and desist, Aug. 19, 1952.
Dean Merchandising Co., Inc.	Docket No. 5950.	-----do-----	-----do-----	Complaint issued Jan. 24, 1952. Order to cease and desist, Oct 6, 1952.
Harrison Mills, Inc....	Docket No. 5981.	Rayon fabric-----	East Newark, N. J.	Complaint issued Apr. 30, 1952. Initial decision issued Mar. 17, 1953.
Expert Rayon Co., Inc.	Docket No. 6007.	-----do-----	Jamaica, N. Y.	Complaint issued July 14, 1952. Consent settlement entered into Sept. 12, 1952.
Academy Knitted Fabrics Corp.	Docket No. 6028.	-----do-----	New York City.	Complaint issued Aug. 11, 1952. Order to cease and desist, Dec. 24, 1952.
Seymour Dress and Blouse Co.	Docket No. 6059.	Rayon dresses-----	-----do-----	Complaint issued Nov. 18, 1952. Initial decision issued Feb. 20, 1953.

Investigational matters and cases before the Federal Trade Commission since Jan. 1, 1952, on subject of alleged dangerously flammable textiles—Continued

Vendor	Kind of product or garment	Where produced or found	Action taken	Closing date
Knitting mills-----	Rayon sweaters---	Brooklyn-----	After administrative consideration, closed for reasons of lack of jurisdiction, discontinuance of practices or sale of dangerous merchandise, etc.	Sept. 9, 1952
Do-----	Rayon fabric-----	New York City-----	do-----	May 21, 1952
Do-----	do-----	do-----	do-----	July 16, 1952
Sportswear manufacturer.	Rayon sweaters---	Chicago, Ill.-----	do-----	July 30, 1952
Hat manufacturer-----	Rayon hats-----	Buffalo, N. Y.-----	do-----	Nov. 18, 1952
Sweater manufacturer-----	Rayon sweaters---	New York City-----	do-----	Feb. 1, 1952
Do-----	do-----	Cleveland, Ohio-----	do-----	Feb. 4, 1952
Do-----	do-----	North Arlington, N. J.-----	do-----	Feb. 4, 1952
Peddler-----	do-----	Washington, D. C.-----	do-----	Jan. 29, 1952
Fabrics exporter-----	Rayon fabric-----	New York City-----	do-----	Feb. 14, 1952
Dress manufacturer-----	Rayon dresses-----	do-----	do-----	Feb. 8, 1952
Merchandise company-----	Rayon sweaters---	do-----	do-----	Feb. 6, 1952
Fabric wholesaler-----	Rayon fabric-----	do-----	do-----	Mar. 26, 1952
Fabric jobber-----	do-----	do-----	do-----	Feb. 29, 1952
Do-----	do-----	do-----	do-----	Mar. 13, 1952
Do-----	do-----	do-----	do-----	Mar. 26, 1952
Do-----	do-----	do-----	do-----	Feb. 29, 1952
Sweater jobber-----	Rayon sweaters---	do-----	do-----	Feb. 14, 1952
Knitting mill-----	Rayon fabric-----	do-----	do-----	Mar. 30, 1952
Rug manufacturers-----	Cotton and rayon rugs.	do-----	do-----	May 22, 1952
Millinery manufacturer.	Rayon hats-----	do-----	do-----	Mar. 27, 1952
Coat manufacturer-----	Women's and children's coats.	Brooklyn, N. Y.-----	do-----	May 23, 1952
Trading company-----	Rayon sweaters---	Providence, R. I.-----	do-----	Mar. 18, 1952
Millinery manufacturer-----	Rayon hats-----	Buffalo, N. Y.-----	do-----	June 26, 1952
General merchandise-----	Rayon mittens---	New York City-----	do-----	Jan. 13, 1953

Mr. MILLER. In January 1952, when the great rush of burnings took place in regard to highly flammable sweaters, referred to generally as the "Torch Sweater Episode," there was received in our office quite a large number of newspaper editorials, clippings from editorials, on the subject. I have here a brief summary of some of them that would indicate a cross section of the type of information that was appearing in the press at that time. It consists of one page, and I offer that for such use as you wish to make of it, Mr. Chairman.

The CHAIRMAN. It may be made a part of the record.

(The material referred to is as follows:)

SOME NEWSPAPER CLIPPINGS RECEIVED BY THE FEDERAL TRADE COMMISSION RELATING TO EXPERIENCES INDIVIDUALS HAVE HAD WITH DANGEROUSLY INFLAMMABLE BRUSHED RAYON WEARING APPAREL

The Kansas City Times of January 9, 1952, reported under Los Angeles date-line of January 8 that the fire captain of Los Angeles had received reports of at least a dozen cases in which brushed fabric sweaters had caught fire and at least 8 persons injured by burns.

The Kansas City Star of January 10, 1952, reported that Paul Blake, of Kansas City, ignited a cigarette with his lighter and when he placed the lighter into the sweater pocket, the sweater burst into flames. Four fellow employees saved him from burns by beating the flames out after half of the sweater had been consumed.

The New York Times of January 12, 1952, reported that Robert Flavin, of Long Branch, N. J., was burned on both hands the day previous when a sweater he was wearing flared up as he struck a match to light a cigarette.

The New York Sunday News of January 13, 1952, reported that Mrs. Mary Sheffield, of Newark, N. J., was burned about both hands when the sweater she was wearing suddenly burst into flames as she turned on her gas stove to prepare a meal. The same issue newspaper reported that at least 20 persons throughout the country had been injured by flaming sweaters.

The Norristown (Pa.) Times of January 14, 1952, reported that Edward C. Martin, of Schwenksville, lighted a cigarette with a match and the sweater he was wearing went up "like a roman candle." A friend extinguished the fire by throwing water on the sweater but not before Martin's neck was scorched.

The Washington Post of January 16, 1952, reported that J. Patrick Staubs, of Silver Spring, Md., escaped serious injury the previous Sunday when the sweater he was wearing on a golf course caught fire as he lighted a cigarette.

Mr. MILLER. Our first point relates to the scope of the bill. The bill before you applies merely to wearing apparel and to fabrics made for wearing apparel, with certain exceptions within that scope.

The CHAIRMAN. You say the bill before us does. We have several bills.

Mr. MILLER. Well, they are uniform on this one point.

By limiting the legislation to wearing apparel, there would be excluded from it such things as bed blankets, baby blankets, bedding, rugs, draperies, and similar household textiles, which are textiles of the type that come in close contact with the human being. They may be highly dangerous, and we feel, the Commission feels, that the legislation on flammable fabrics should not omit that category of fabrics, unless the committee should desire to make that the subject of separate legislation, which might very well be the view taken, in view of the fact that it seems to be highly important that we try to get some legislation on the books as quickly as possible, leaving this other field perhaps to separate legislation.

Also within the scope of the definition of fabrics that are subject to the act, exception is made for yarn and filaments. Yarn, being therefore exempt from the bills, would leave out hand knitting yarns, which are extensively used in the home for knitting sweaters and jackets and baby clothes, and what not. Moreover, filament, if I correctly understand what is meant by that term as used in the bill, would leave out of the measure such things as are used in making Santa Claus beards, the chaps on cowboy suits, which in the past have been the cause of considerable burnings, or perhaps things like imitation pigtails that are worn by little girls.

Those things can be highly flammable, depending upon the material they are made of and the construction. We feel that the measure would have a loophole if that were not covered to the extent of requiring the test to be applied to it from the standpoint of the way it is used by the ultimate consumer. I mean by that that the sale of yarn between a weaving mill and a spinning mill, inside the trade or between one segment of the industry and another, quite obviously should not or need not be covered. But when the material is used in the home, then is where we feel that there should be some restrictions to the extent of throwing out those which are so highly flammable as to be dangerous to human beings in their normal use and in the expected use to which they are put.

On that point, you undoubtedly will hear the question raised that there is no test method, there has been no test method, as yet developed, for such yarn. That perhaps is true, for the reason that in the industry, in developing the test that is specified here, they have limited

themselves to wearing apparel and to fabrics made into wearing apparel.

But we feel that they ought to set about and develop a test, if a separate test is necessary. The legislation is designed not to go into effect for a year, or for at least six months. Meanwhile, a test method could be developed.

So in order to avoid having the consumer get the idea that now Congress has provided flammable legislation and "we can be safe; we don't have to be too cautious about what we buy any more, because Congress has seen to it that it is safe." Now, if the public gets that information, and they are very likely to get it, and if something is left out of the bill, they will be lulled into a false sense of security in the event that some of the items that come in close contact with them are highly dangerous.

Our next point relates to the standard of flammability. And we have presented the question: Does the present standard that is written into the legislation provide a stiff enough test that will afford the consuming public protection from the dangerous products that this legislation is intended to rule out? It is our fervent hope that it does. I think it is quite well admitted on everybody's part that the test is not perfect. It is not too exact. There may be borderline cases, which one second of burning will throw across the line into the category of lawful goods, where as one second will throw it into the ban. So we think that there ought to have been, if there isn't as yet, and I am not certain that there isn't, some official authority that would have the duty of passing upon this test from the standpoint of whether it is reasonably adequate and fair, in providing the protection of the consumer.

Now, the fact that 65 percent of the industry has accepted it is undoubtedly sufficient to be grounds for being confident that the industry feels it is adequate. Promulgation of standards by the Department of Commerce, so far as I am informed, does not necessarily mean a decision by the Secretary of Commerce that this is what is necessary from the standpoint of all the people, from the standpoint of the public. But it does mean that this is the best standard that could be worked up with the industry's approval. Those two points, the difference there, may be quite substantial, and it may not. We do not know, we have no information, other than the fact that 65 percent of the industry has approved, whether this standard is a good one or is not a good one.

In the Wolverton bill, the provision was made that for the time being, this standard would become the legislative standard to determine flammability, and that the Secretary of Commerce would be authorized to go ahead and promulgate standards, work up standards, that are in his judgment adequate in the public interest. Now, that would give the Secretary of Commerce an opportunity to review the present standard and to come out and make no changes if he thinks that is the proper one that will provide the public protection.

On the other hand, if he should find or if experience should develop that it was inadequate, he would have the authority to change it. He would have the authority to make new ones. He would also have authority to develop additional standards, that cover matters such as plastics, that have been mentioned here, and other articles that are

not covered by the present standard. That, in my judgment, would allow the legislation to go ahead without delay, and would, at the same time, not only bring into the legislation the flexibility for improvement that the industry feels is desirable, and we do, too, but it would also bring into this thing an official determination, based on scientific evidence and practical experience, with all the facilities of the Bureau of Standards, that they have, in connection with fire prevention, and the determination of matters affecting flammability.

It would bring into this legislation an opportunity for an official determination on the point of adequacy.

I think that the apparent fear of arbitrary action on the part of the Secretary of Commerce is one that I do not share, but I think it is perfectly proper to put something in the bill to safeguard against that fear, and it seems to me that the suggestion in substance of the amendment Mr. Hinshaw mentioned this morning would be good.

In addition to that, I would even be willing to provide in there that in the development of standards, the Secretary of Commerce must permit the industry representatives, as well as all other interested or affected parties, to consult in the matter, to be heard, and to take part in the development. But when all the chips are down, it would be his official responsibility to make the decision on the basis of what is adequate and fair for all the people and in the public interest.

The fourth matter that we have raised relates to the guaranty. We feel, with the exception of course of that misplaced phrase in section 8, the provision of section 8 of the Wolverton bill is all right. It follows the line of similar guaranty provisions that are found in the Wool Product Labeling Act, in the Fur Product Labeling Act, and also in the Food, Drug, and Cosmetic Act. We do not feel that the guaranty provision, as contained in the later bills before us, 3851 and 4159, is satisfactory. The reason we feel it is not is because the responsible party, namely, the original manufacturer, under that guaranty does not warrant his product as being within the law. He doesn't take full responsibility for the product. He merely warrants or guarantees that he has made reasonable tests, whatever that means. And that is far different from what is required under the Wool Act, the Fur Act, the Cosmetic Act; where the person who gives a guaranty is required to warrant or guarantee that his product meets the requirements of the law, so that people down the line may accept that.

That is very important, because the guaranty given by the original producer provides immunity from the law to everybody down the line that handles the product afterward, assuming, of course, they received it in good faith.

We feel that the dealers and the intermediate processors, and so on, who act in good faith, should have the right to receive a guaranty that will protect them. We are not opposed to guaranty. But we urge that whatever guaranty is put in there is one that really means something.

Now, a manufacturer who does not have enough confidence in his own product that it meets this test here, or that it stays far enough away from the borderline as to be safe—if he hasn't got that confidence in his own product, he ought not to issue a guaranty. And there is no obligation under this act for him to issue a guaranty. The issuance of a guaranty is entirely an optional matter. That is the way it is under these other acts that I have referred to.

A second point in regard to the guaranty, in the later bills, is that he merely guarantees that he has subjected fabrics of the same type to reasonable and representative tests. That means, if I correctly interpret it, that he does not even test the very fabric that he puts out, but those that are of the same type—which may be quite different.

Moreover, I think it is pretty well conceded that in a long bolt of fabric, or a long run of fabric, there will be spots each 10 or 15 yards in that yardage that would not meet the test, but other parts of it will. Now, those spots that will not meet the test will go on down to the garment manufacturer, and find their way into garments, and go on to the consumer, and sure as anything somebody is going to be burned by that spot of fabric in that line that didn't pass the test. That is why it is so important to have the door closed to the possibilities of fabrics leaving the factory that will be dangerous.

Under a guaranty in which the person merely guarantees that he gives representative and reasonable tests, those spots that will happen not to be caught will be left to go into the channels of distribution, to reach the consumer, under a type of fabric that is guaranteed fabric, fabric guaranteed by law. And there again, the consumer would be lulled into a false sense of security if he got some of those fabrics that were bad.

Now, it is said, "Well, we can't test every yard, because in testing it you would destroy it, or you would hurt it in such a way that it wouldn't be salable any more." That is true. But the manufacturer can make fabrics that he stays away from the danger line on far enough to be quite certain that his yardage will all be in the safe category. If he seeks to make fabrics down close to the line, and probably some of these nets that Mr. Buck was referring to would be close to the line, there is a danger to be run, a risk to be run, and just simply a question of: are you going to have that risk shouldered by the manufacturer, or by the ultimate consumer who may be burned?

There are to some extent treatments that can be applied to fabrics for fire resistance. In the case of canvas or circus tents, those tents are required by local authorities to be treated for fire. Now, the same kind of treatment that you give a circus tent would, of course, not apply to a very fine dress fabric, but there are treatments being developed from time to time that would undoubtedly supply considerable help in taking care of this borderline stuff that gets down into the twilight zone.

The commercial standard which is mentioned in the bills provides three classifications. If it takes 7 seconds to burn a fabric under the machine, that is regarded as normal flammability and is O. K. If it takes from 4 to 7 seconds, it is classified under that standard as having intermediate flammability.

In other words, I think that is a term that would quite obviously indicate that you are getting down into the twilight zone, or at least the danger zone. But that is still not ruled out from being marketed to the public. It is only when it comes down to less than 4 seconds burning that you get into the fabrics that are definitely ruled out.

Now, if the manufacturers will undertake, it seems to me, to hold their fabrics to a point where they do not get into this twilight zone, they have no risk to run at all to speak of in the matter of whether or not their guaranty is going to be sound against dangerous flammability.

Another point in regard to guaranties in the latter bills which we object to is the provision that makes it impossible for the enforcing agency to take any action against a false guaranty, unless you are able to prove that the issuer knowingly issued the false guaranty. In other words, you have got to prove knowledge there of the type that you would ordinarily prove in a criminal provision. And such knowledge is generally not necessary in any civil action of the type that the Federal Trade Commission is authorized to take in the issuance of cease and desist orders.

So that, in our judgment, considerably weakens the restrictions or the power to control abuses in connection with the issuance of guaranties which have such wide effect in considering immunity all down the line.

One further point, and we get to the last section of the bill. Provision is made for the exclusion of various transactions from the legislation, and one of them is, in the latter bills, the exclusion of sales for export trade. We do not raise an objection to that. We present it merely to call it to the committee's attention, because it involves a matter of policy, whether or not we should put ourselves in the position of saying that these goods are unfit for American consumption but they are all right for the foreign consumer. That is the type of difficulty that we would run into if that provision is maintained.

Finally, just a word on why this legislation is needed, in view of the fact that the Federal Trade Commission, under its present law, the Federal Trade Commission Act, has taken certain action against people who have sold highly flammable merchandise.

Our action is taken under the provision of the law which proscribes unfair methods of competition in interstate commerce and unfair or deceptive acts or practices in interstate commerce. When we have a complaint of that sort investigated and get the necessary facts, the Commission is authorized to institute a proceeding against the company. And trial is had, and hearing, brief, and argument, which may lead to the issuance, then, of a cease and desist order.

That all takes place, however, after the injury has been consummated. In other words, our action we must admit in large respect is action after the horse has been stolen rather than before.

So this legislation, as we view it, is of the prophylactic type, legislation that will stop the issuance of the merchandise, stop it from getting into commerce, and consequently will head off the evil, rather than trying to correct it after it has occurred. That is the principal reason why, gentlemen, we think this legislation is needed in addition to what already is available.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Any questions, gentlemen?

Mr. HESELTON. Mr. Chairman?

The CHAIRMAN. Mr. Heselton.

Mr. HESELTON. I do not know whether you would be in a position to answer this question, but it has been raised in my mind during a portion of your statement. Possibly someone in the room who is acquainted from the industry standpoint can answer if you cannot.

As I understand your testimony, roughly speaking, anything that burns in 4 seconds is describable as highly flammable?

Mr. MILLER. Less than 4.

Mr. HESELTON. Anything between 4 and 7 would be of intermediate flammability?

Mr. MILLER. Seven; I may be wrong, but it is somewhere in there.

Mr. HESELTON. That is what you would term intermediate flammability. And the rest is safe.

Mr. MILLER. Yes, sir.

Mr. HESELTON. Have you any idea of how much production there is, or any estimate of how much production there is, of materials that would be covered by this bill, that now would fall in the first category of "highly flammable"?

Mr. MILLER. I haven't any information on that. My understanding is that a very small proportion in relation to the whole would be involved.

Mr. HESELTON. And you haven't any estimate on the intermediate flammability?

Mr. MILLER. No; I haven't. That, of course, would include a larger amount, but how much I don't know. I think there are some persons here who have some data on that.

Mr. HESELTON. If that has not gone into the record, Mr. Chairman, could anybody who has that knowledge be asked to provide it for us?

The CHAIRMAN. Could you suggest who that might be?

Mr. HESELTON. I have no choice.

Mr. MILLER. I believe Mr. Buck may have something on that. That is a guess on my part. But he is quite familiar with fabrics produced in the textile industry, and I am inclined to think he might have something on that.

Mr. HESELTON. If he could provide that, I would like to have it, because I want to ask some other questions.

Mr. Buck, can you provide us with that information?

Mr. BUCK. Mr. Heselton, we probably could give you fairly accurate figures. I can give you rough estimates. I want to emphasize, though, that this standard has time limits for two classes of fabrics, one for sheers and one for nets. Now, if you raise the overall standard from 4 seconds to 7 seconds and had that include all your plain-surfaced fabrics, which would be your dress goods, your print cloths, and so on, you would certainly include an additional 500 million yards that would be restricted to goods that are normally considered very safe. And I believe it is quite possible that if you went up to 7 seconds, you could include as much as a billion and a half yards of goods which we wear all the time.

Mr. HESELTON. May I interrupt you? You mean in the less than 4, 500 million yards, and less than 7, a billion and a half?

Mr. BUCK. No. I meant that if you increase the burning-time range for all fabrics, from 4 seconds to 7 seconds, you will add between 500 million and 1,500 million more yards to what would be restricted.

Mr. HESELTON. That would run overall from zero to seven?

Mr. BUCK. No; that would be what you would bring in and change, from 4 to 7.

Mr. HESELTON. I see.

Mr. BUCK. Now, if you confined your change of 4 to 7 for just the pile and raised-surface fabrics, that would be tufted goods, pile goods, and nap goods, and it would be a little harder to say what you would include. It would be a smaller amount.

I should like to point out, though, that the reason for that 7-second limit and the 4-second limit is that this is not a precise instrument, particularly on these raised-fiber fabrics. You get a variation, test to test, of 2 to 3 seconds. If we set a dividing line at, say, 4 seconds it is entirely likely that the Bureau of Standards might measure that at 5, and somebody else at 3. So we have set the limit at 4, because we know that will exclude all the really dangerous fabrics. And under the voluntary standard, we set the limit at 7 seconds, and we say to the manufacturer: You keep your goods at 7 seconds and above, and the chances are that no one will test those goods at under 4. That is your twilight zone. Now, if you set the regulation firmly at 7 seconds, then you might have to move up to 10 seconds, to keep out of the range on this particular type of fabric. It is a safety valve.

Mr. HESELTON. I think you anticipated the question I had in mind, but perhaps I ought to ask it to be sure that I do not misquote you. Is Mr. Miller's thought one that you share, that if this standard becomes law, most if not all of the manufacturers would establish a sort of a tolerance, so that they would be certain, if they used this guaranty, that they would be on safe ground?

Mr. BUCK. I think that is true in most all cases.

Now, unfortunately, the entire industry is troubled by one peculiar feature of this testing device, which technicians and scientists have been able to overcome, and that is that a perfectly safe fabric can show a burning speed as rapid as a highly dangerous fabric, and yet be safe. And the difference is in the kind of flame you get. You can take any fabric you like, from a shirt you wear to a flannel, to a flannelette—and of course all of our children wear flannels and flannelettes and have for 50 to a hundred years—and if you rub up the surface, you can get a tiny flash of flame that runs rapidly over there, with no volume, no intensity. It couldn't burn you at all. But if you simply measure burning speed, it is as fast as one of these big torch things that flares up and goes along with a tremendous volume of intensity.

Now, this test method had to distinguish somehow between this very minor thing which won't even ignite the base fabric, and this intense flame. And it has largely done that. But because of the peculiarity of fabrics and their variation, occasionally this very minor flame might ignite a spot of the base material. Now, we submit that is still not dangerous, but that does perplex us, and it has been the subject of some of the concern that industry people have voiced here during the past 2 days.

Mr. HESELTON. That is all, Mr. Chairman.

The CHAIRMAN. Any further questions, gentlemen?

Mr. HALE. Mr. Miller, you suggest, if I understood you, some very substantial misgivings about the language of your section 11 (b) on page 11 of H. R. 3851.

Mr. MILLER. I undertook not to express a position of the Federal Trade Commission one way or another, but to call to the attention of the committee that it does involve a question of policy on this matter of whether we should by legislation be in the position of virtually saying that things that are unfit for ourselves we will permit to be sent abroad to other countries. In times when similar legislation has come up, that question has been raised, and I felt it desirable merely to mention it, so that the committee could have it in mind. It is a question of policy entirely, it seems to me.

Mr. HALE. I think perhaps you are unduly modest about policy. But I would point out that I suppose, when this bill was drawn in the first place, the significant words in that section are found in lines 23 and 24, "made in accordance with the specifications of the purchaser." I suppose the idea underlying the section is that if a foreigner wants to have manufactured in this country goods that he knows are flammable, we ought not by statute interfere.

In other words, it is a sort of an assumption-of-risk provision. If you have that assumption-of-risk provision with regard to foreigners, I don't know why you should not have it with regard to Americans as well.

Mr. MILLER. Well, we do prohibit the importation of the highly flammable material. There is a provision in here that would undertake to check the foreign product coming into this country that would be of highly flammable character.

In the other legislation, the Wool Product Labeling Act, a somewhat similar provision appears.

The distinction, however, between that and this is that here something would be going out of the country that is dangerous to life, as distinguished, under the Wool Act, from something going out unlabeled, which merely fails to put the foreign purchaser on notice of what the fiber content is, but involves nothing in the nature of matters that are dangerous.

Mr. HALE. As far as I am concerned, that seems to me a very dubious provision. Certainly it is not very good publicity for us to be manufacturing and shipping abroad death-dealing fabrics.

Mr. MILLER. That provision, I might say, does not appear in 2768, Mr. Hale.

Mr. HALE. That is all. Thank you.

Mr. CARLYLE. Do I understand that it is the position of the Commission, or do you take the position that standards which have been set up are insufficient at this time?

Mr. MILLER. We do not take the position that they are insufficient. We do not know. As far as I know, there has been no ruling on that other than what you can infer from the fact that it is a promulgation by the Department of Commerce of a voluntary standard, which in their procedural manual quite clearly indicates that the Department of Commerce is merely furnishing its facilities to the industry to promulgate an industry agreement. On that industry agreement I know very hard work has been put on it by the members of the industry with the Bureau of Standards. It may be and it may not be.

We felt, however, that some competent authority, governmental authority ought to rule on that. I realize that if we waited now to get such a ruling, this legislation would be delayed. So we go along with the idea as expressed in H. R. 2768, to let it be used as the basic standard now, until the Department of Commerce or the Secretary of Commerce can go through the machinery of developing information and determining whether he wants to issue a new standard or change this one, in which he has to make the determination as to whether it is necessary in the public interest.

That would bring into this situation, except for a temporary period, this matter of determining and testing the adequacy of the test method.

Mr. CARLYLE. I understood you to say that the members of the Commission are in favor of legislation such as we have discussed.

Mr. MILLER. That is right.

Mr. CARLYLE. I want to ask you whether or not the members of the Commission are satisfied with the present standards being used now. You are not in a position to say that?

Mr. MILLER. I am to this extent: The Commission has filed a report with the committee in which it says that it is in favor of section 4, where the standards referred to, as it now appears in H. R. 2768, which as I indicated does bring into it or leaves the door open to this official determination in the course of time, by reason of having delegated to the Secretary of Commerce authority to make standards that he finds are necessary in the public interest.

Mr. Chairman, in view of the fact that this matter of constitutionality has come up, and my name is on the memo submitted by myself and Mr. McClure of the Department of Commerce, I would like to suggest that the case in the Supreme Court of *Kearn v. Wallace* be put into the record here. It is my view that that case does not overrule or modify the decisions that we have mentioned in the memorandum, and that we think there is provision even in the opinion of the court itself that clearly distinguishes the type of cases.

For example, here is a sentence in *Kearn v. Wallace*:

This is not a case where a group of producers may make the law and force it upon a minority.

It goes on citing *Carter v. Carter Coal Company*, which we had cited, and other cases.

Now, the latter part of that decision bears directly on this question that has been before the committee. I ask that the whole go in for the reason that what precedes it may have a few paragraphs that are unnecessary, but nevertheless it explains the statute and what the provisions of the statute were that were in question and how the case arose, and that is quite important to an understanding of what the court said on this question of constitutionality.

The CHAIRMAN. My thought in that matter of course is not binding upon any other member of the committee, but when a question of constitutionality arises, it can be eliminated by either putting a provision in a bill or leaving a provision out of a bill; it is much more preferable, in my opinion, to eliminate the constitutional question than it is for this committee to assume the role of a supreme court in trying to decide what the Supreme Court would decide under the circumstances.

Mr. MILLER. May I express by appreciation on behalf of myself and the Commission for this opportunity to present the matter to you and we stand ready to assist the committee in every way possible.

The CHAIRMAN. I know you have been very faithful in your attendance, Mr. Miller. I hope that your patience has not run out and that you will be willing to remain a bit longer in case the committee would wish to direct any question to you.

Mr. MILLER. I shall be glad to do that.

The CHAIRMAN. Now, Mr. McClure, are you prepared to speak on behalf of the Department of Commerce, from a legal standpoint? That is from a standpoint of advising the committee as to how this standard is arrived at and if possible how many 65 percent represents and who was given the privilege of voting in that 65 percent, and who were not. We did hear of one this morning whose name wasn't evidently on the voting list.

STATEMENT OF KENNETH F. McCLURE, ASSISTANT GENERAL
COUNSEL OF THE DEPARTMENT OF COMMERCE

Mr. McCLURE. We have experts from the Department, from Commodity Standards, who will testify as to the procedure that is used in the development of these commodity standards. We have experts from the National Bureau of Standards who will testify as to the adequacy of the present commercial standards which would be included in the legislation by any of the bills, and I had merely come up here in case you wanted something further on this constitutionality problem. Since Mr. Miller who joined me in the memorandum has made some mention of what he considers an explanation of the points raised by those who thought that the case of *Kearn v. Wallace* presented a significantly different solution or approach to the problem, there may very well be nothing further for me to add at this time, Mr. Chairman.

The CHAIRMAN. You are just inviting yourself to move out as a witness?

Mr. McCLURE. There is one point, Mr. Chairman, that I would like to take this occasion to make, and that is as you probably have noticed, I have been sitting through these three days of hearings, and the thought occurred to me that there is a very closely parallel situation that exists in the administration of the Food, Drug and Cosmetic Law, where they are interested in protecting the general welfare of our country, and there is provision there in section 701 for the establishment of standards to be used in the administration of this law, and the modification of these standards. There is a specific procedure set forth there, which involves a public hearing, and establishment of a standard on the basis of substantial evidence that is developed in the course of the hearing, and a provision for appeal to the circuit courts of appeal by interested parties who feel that they are wronged by the establishment of this standard.

It just occurred to me that this might be a fertile place to look for a procedure which might be acceptable both to the committee and to the industry representatives.

The CHAIRMAN. The original acts produced by Mr. Canfield, introduced by Mr. Canfield and myself at this session of Congress, provide one means of approach to this question. That is the so-called revised bills which were subsequently introduced by Mr. Canfield, and Mr. Johnson and Mr. Williams provide a different approach. This morning we were informed by Mr. Feldman of a still different approach, and now you appear this afternoon to give us another approach. It seems to me that with this multiplicity of ideas it might be argued that it would be easy for the committee to find a solution of the problem. But I am more inclined to think that the multiplicity of ideas that we have only complicates the confusion which the committee is in in dealing with this matter, and if Mr. Canfield had only stood by the original bill we would not have had all of this controversy.

Now, we will take all of that into consideration, what you have said, and I have before me a statement in that respect that has been prepared by our staff along the same line that you are testifying about, and it may be that they have consulted with you about it. But, however, I do have that for such use as the committee may wish to make of it.

Now, it is a little bit disappointing that you do not take time to argue this constitutional point because it does loom very large in the minds apparently of a good many members of this committee.

Mr. McCLURE. If I might, Mr. Chairman—

The CHAIRMAN. And the opposition has been very sincere in their opinion that this case of *Kearn v. Wallace* changes the effect of the opinions that you gave in your statement and which have been made a part of the record.

In making that a part of the record, the committee is not familiar with the brief you have submitted. It was made a part of the record without being read and therefore they are not familiar with it.

Mr. McCLURE. With your permission I would like to elaborate on it to a certain extent.

The CHAIRMAN. I think we can stand a little elaboration, we have gotten used to it in the last few days.

Mr. McCLURE. In the joint memorandum of law which was submitted by Mr. Miller and myself, we made 4 points, and I should like to touch very briefly on these 4 points.

The first was that the powers conferred in the bill might be objected to on the basis that such power is in effect a power to regulate the affairs of an unwilling minority of the manufacture of such fabrics. Now, we are just looking to the groups of the manufacturers of the fabrics, and looking and seeing if there isn't in this majority of such manufacturers a power to regulate the minority of such manufacturers, which is not allowed under our Constitution. In the Carter versus Carter Coal case, in that case the Guffy Coal Act was held constitutional. That act required coal producers to accept codes under penalty of heavy taxes in the event they did not accept the codes.

The CHAIRMAN. Did that come under NRA?

Mr. McCLURE. No, sir; it came subsequently.

The CHAIRMAN. Is your point any different than that which the Supreme Court declared unconstitutional?

Mr. McCLURE. Essentially it is not, sir, with respect to the Carter Coal Co. The Justice speaking for the majority of the Court did say that a legislative delegation which resulted in the majority of the producers imposing their will on the minority under penalty of law was legislative delegation in its most obnoxious form.

The CHAIRMAN. Was that word "obnoxious" a Court word or is that your word?

Mr. McCLURE. No, sir, I am quoting it, it is not my language:

This is legislative delegation in its most obnoxious form, for it is not even delegation to an official or an official body, presumably disinterested, but to private persons whose interests may be and often are adverse to the interests in the same business.

Now, you see we are talking about a small unit.

Mr. HALE. What is the name of that case?

Mr. McCLURE. *Carter v. Carter Coal Company*, and the citation is 298 United States 238. The quotation that I just gave you is to be found on page 311. This was in 1935, sir.

The CHAIRMAN. The language of the Court seems to indicate that the Court was thinking in practical terms as well as legal terms.

Mr. McCLURE. Now, the second point that we made—there are a couple of other cases mentioned in that connection and I would just

like to briefly point out this Eubank versus City of Richmond, involving a situation where there was a municipal ordinance which authorized the owners of certain proportions of the neighboring properties to establish a property line beyond which the other owners could not build. The Supreme Court found that that sort of a delegation was improper, and they struck it down. There is no question but that the municipalities could have issued such an ordinance, but this delegation to the property owners was considered. In a similar case, the Seattle Title Trust Company case referred to in the memorandum of law involved a municipal ordinance which prohibited the erection of a philanthropic home in a certain zone, without the permission of a certain percentage of the property owners that lived within 400 feet of this place of the erection of the home.

Our second point was when we were talking about the delegation of powers involving a criminal statute, that the courts may very well examine such delegations more critically when the violation will result in criminal punishment.

That particular point is tied in together with our point No. 4, and to conserve time I would like to mention them together. In our fourth point we made the point that it can be forcefully argued that section 4 (b) of these particular bills, H. R. 4159, 3851, and 4500, would not only attempt to regulate the affairs of an unwilling minority of the manufacturers of such fabrics, but also under certain circumstances and unwilling majority of the public in derogation of the public welfare for the power which would be entrusted to an interested 65 percent of the volume of business could be used by the veto power that they would exercise and which has been discussed in this chamber on the 3 days we have been on the bills, to defeat the very purpose of the bill by allowing dangerous fabrics not proscribed by the standard established by the bill, by this standard which would be put in the bill in so many words, but by the amendments to be shipped in interstate commerce.

Now, in that connection I would like to speak just a minute about this Kern versus Wallace case. In that case the Supreme Court held constitutional the Tobacco Inspection Act against a claim of improper delegation of legislative authority to private persons. The application of the act to a particular market area, that is this Tobacco Inspection Act, having to do with grading and inspecting tobacco, when it was in that condition apparently it brought more on the market than when it was not so inspected and graded, was conditional to the acceptance of this program by a majority of producers and sellers using the area as a market.

Now, penalties, it is true, were involved. These penalties arose from the nonconformance to the rules once a market area was established.

Now, the law, as passed by Congress was clearly spelled out, and there wasn't any question about what the law was. It was just a question of the application of the law to the particular area, and this was the choice that was made by the users of the area.

Let us contrast that with our present situation. That involved a proposed delegation to a majority of the industry to be regulated.

Now, it is true, I am stating that rather baldly, but I believe there has been enough discussion here to indicate that the use of the veto power that the group would have could be so set forth.

They would have authority to dictate by veto power the substantive standard to be used in distinguishing the guilty from the innocent under the criminal provisions of the law.

Now, this is a law whose major purpose is the protection of the public generally. We are not talking about the benefits, or shall we say the program, that would go into effect with respect to these tobacco producers and sellers in the area. We are talking about a law where the major purpose is the protection of public generally rather than the benefit of the industry passing on the standard.

Now, I believe this difference, and it might very well be a constitutional difference, distinguishes the Kern and Wallace case from the delegation herein proposed.

There is one other last point that I would like to make and that is that although we have talked about the 65 percent of volume of business that would be necessary, there is another aspect that has been mentioned in passing by the committee and that is this valid opposition.

It is one thing to have in the procedure for developing these voluntary standards, procedures of the sort that you have discussed and described in connection with them. They do not have the force of law. The law comes into effect only when some one says that his product conforms to these standards and whereas in fact it does not, and therefore I must say that I am making something of an apology for that without valid opposition language, which it seems to me when you think of it in terms of a standard for a criminal statute to determine where when the criminal statute shall be imposed and the penalties shall be imposed and when they shall not, is the sort of language that might very well be struck down as being void, because it is too vague.

I made my apology for the language because I wanted to distinguish the case where it is used in a criminal statute and where it is used in this voluntary standard procedure of the Department of Commerce.

The CHAIRMAN. Aside from what you have just said, in directing our attention to the criminal phase, if I understand your position of distinguishing these two cases, it is something like this:

That in the Kern versus Wallace Tobacco case, the court upheld a provision that had been exacted for the benefit of an industry and not from the standpoint of the public, and that therefore there could with some propriety be said that the industry could control itself in that field, whereas in this statute its fundamental purpose is to protect the public and that therefore it would not be appropriate for the industry that was to be controlled to fix the conditions under which the public were to be protected.

Mr. McCURE. Yes, sir.

The CHAIRMAN. In other words, you could constitutionally in your opinion have a statute that would enable an industry in protection to itself as distinct from the public interest, have the rights that were given in the Tobacco Act, but that the same reasoning would not sustain a statute, the purpose of which was to protect the public by permitting the industry to require to control it and to determine the basis on which it should be controlled.

Mr. McCURE. Yes, sir.

The CHAIRMAN. I think that there is a lot of reason to that, but as I have already said, from my own personal standpoint, aside from the legal question that is involved, I cannot at the moment bring myself

to the conclusion that it is a good policy to adopt in a statute of this kind which is primarily to protect the public from the particular conduct or action of an industry, to permit 65 percent of that industry to control what Congress is doing for the benefit of the public.

I am unable to see that there is any justification for Congress delegating its authority in that respect. That is totally aside and beyond the question of constitutionality.

Are there any questions, gentlemen?

Mr. HESELTON. I have hurriedly glanced over this Carter Coal Company case, and I think there is a very significant portion of Mr. Chief Justice Hughes' separate opinion. I would like to put it in the record here. It reads:

The Government invokes the analogy of legislation to become effective on the happening of a specific event, and in this case the event is the agreement of a certain portion of the producers * * *.

The CHAIRMAN. Are there any further questions or observations or comments? If not, that will be all at this time, Mr. McClure.

STATEMENT OF MATTHEW H. O'BRIEN, REPRESENTING THE RAYON AND ACETATE FIBER PRODUCERS GROUP, NEW YORK, N. Y.

Mr. O'BRIEN. I represent the Rayon and Acetate Fiber Producers Group. That group composes such manufacturers as American Viscose Corp., American Enka Corp., Beaunit Mills, Inc., which operates American Bamberg, North American Rayon Corp., and Skenandoa Rayon Corp.

The CHAIRMAN. Do you have a prepared statement?

Mr. O'BRIEN. No, sir; I do not.

The CHAIRMAN. The rules of this committee require such a statement.

Mr. O'BRIEN. I was not aware of that, sir.

The CHAIRMAN. It seems to me enough notice has been given of it.

Mr. O'BRIEN. I have been waiting through the 3 days to testify and if I am in error I am sorry, but I would have modified the statement on the events as occurred anyway, Mr. Chairman.

The CHAIRMAN. I do not hear any objection on the part of the committee to your testifying without a prepared statement. But I am sure that they are all of the opinion it would have been helpful if you had complied with the rules.

Mr. O'BRIEN. It may be briefer if I did not sit down and dictate a statement. Continuing the identification of the companies I represent, in this group, the Celanese Corp. of America, Courtaulds (Alabama), Inc., I. E. du Pont Nemours & Co., Inc., The Hartford Rayon Corp., Industrial Rayon Corp., New Bedford Rayon Co., and Tennessee Eastman Co., a division of Eastman Kodak Co.

We are manufacturers of fibers and yarn, and not primarily of fabrics and not concerned with the production and sale directly of the flammable fabrics with which you are concerned.

We are, however, naturally concerned with this problem and we have contributed to the research to develop these test methods, and as a group some time ago endorsed the principle of Federal legislation to control or prohibit the sale of dangerously flammable apparel fabrics.

We have cooperated with the National Bureau of Standards. We approve the standards and the bills, H. R. 3851, H. R. 4159, H. R. 4500, with 4-A, and with 4-B, or without 4-B, and in the interest of getting on with what we think is a very urgent problem, however, we are inclined to say that the suggestions made by the chairman, echoed by Mr. Hale and Mr. Priest, to let Congress establish the standard and if it isn't perfection, perfect it later, but do something now.

I do not want to get into any of the constitutional questions that have been hashed around here.

The CHAIRMAN. Well, that is a novel and unique argument, coming from the witness. I had not heard it from any other witness.

Mr. O'BRIEN. I told you I had something new, Mr. Chairman. I have to address myself now to what I believe was the second point made by Mr. Henry Miller and mentioned in the letters from the then Chairman Mead of the Federal Trade Commission which the chairman of the committee read the first day.

It may seem strange that in a flammable-fabrics bill we are concerned about the necessity to exempt fibers, filaments, and yarns. But one thing that is common to all of these bills seems to be the definition in paragraph (2) (e). If I may explain my point by reading, this is the same in all bills, it says:

The term "fabric" means any material (other than a fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber. . .

That is the part of the definition we are concerned with. After you have covered in that definition woven and knitted fabrics, and, indeed, felted products, then you cover any other material produced from a fiber, or filament or yarn. Well, naturally that covers yarn in itself.

In making this statement, I want to distinguish in the minds of the members of the committee the recommendations in Chairman Mead's letter, and the reasons for it as given in Mr. Miller's statement. The recommendation to you gentlemen is that you eliminate the exception from this flammable-fabrics bill which excepts fibers, filaments, and yarns.

Now, I assure you gentlemen, that is an utterly impractical recommendation. I had in mind to bring down with me some of our fibers and filaments, but instead I took this one out of my cotton shirt. Now, you can barely see that in this light. If I brought the fibers and filaments of our industry down, some of them would hardly be visible to the naked eye. There is no test method to determine whether the fabrics into which that yarn goes will be safe or will be dangerously flammable. We can't do it by burning that yarn.

Burning is a matter of uniting with oxygen and the more air around it, the more rapidly the product burns. Now, take that same thing in this shirt where I may have 150 threads one way to the inch, and 60 to 75 the other way, and you have got an entirely different problem. My point is I think Chairman Mead and Mr. Miller are recommending a more drastic change than they mean or intend.

We can sell, and when I say "we", the same thing applies to cotton. We can sell yarns and the same yarns can go into a dangerously flammable fabric, or a completely safe fabric, depending on the construction of the fabric, the dyeing and finishing, and the various treatments given to it. This would make it almost impossible to not only sell our

rayon yarn but sell cotton yarn and cotton fiber. You may as well stop making rayon and stop growing cotton, they are both cellulose and both burn. Both at the same rate.

Maybe I could explain this by illustration: We have all taken a newspaper and crumpled it up and put it in with some kindling in a fireplace. We crumple it up and it ignites rapidly. If we threw a Sunday newspaper on there, we would have the same flammable material but it would smother the fire. So we respectfully submit to you that this cannot be judged, and cotton yarn and rayon yarn cannot be tested under this test method and it was never intended for that, and it should not be penalized out of commerce by deleting the exception which we had to put into a fabric definition merely because they wanted to cover anything in the fabric line that wasn't either woven, knitted, or felted, and necessarily by their general language they covered our yarn.

Now, that is the effect of the proposed amendment.

The CHAIRMAN. I assume the committee may get the full force of what you are saying with complete understanding. Are you addressing your remarks to the committee against the recommendations and against any proposed amendment, or against some provision that is in the bill?

Mr. O'BRIEN. I am in favor of the provision in the bill which excepts from the fabrics definition fibers, filaments and yarn.

The CHAIRMAN. So your remarks are directed to the committee with the idea that we would not accept the recommendations in that respect. I might say without adding anything more controversial to the bill, I have a biblical quotation which comes into my mind, and that is, "Sufficient unto the day is the evil thereof."

What we have in the bill, with that I am wondering whether anyone in the committee does want to add to the evils that are in the bill.

Mr. O'BRIEN. I certainly would never like to argue a case after it is decided in my favor.

The CHAIRMAN. That is awfully good judgment, provided I was speaking for the whole committee, which I am not.

Mr. O'BRIEN. We feel the soundness of our position will appeal to all members of the committee.

Now, there is one other recommendation of the chairman of the Federal Trade Commission endorsed by Mr. Miller, to which I want to refer very briefly, and then I am through. That is the question of "could this be done as to keep a control on fibers, filaments and yarn that go into hand-knitted yarns." Well, in the first place, we still have no method of testing fibers, filaments and yarns, and that is based, I must say, on speculation. The cases we have seen so far, and we have tried to keep up with these injuries on dangerous flammable fabrics, have not come from hand-knitted sweaters. That is an absolute assumption. The hand-knitted sweater could be knitted as tightly or loosely as wanted. These injuries have come from the most part, from the high pile fabrics, the brushed fabric which makes the fibers stand up, plenty of air around them, and they burn at a rapid rate. So even referring to the argument in support of it, I want to say it is not based on fact, it is based on a supposition, and after all we submit we can't keep out of commerce commodities which some one might misuse. We still sell matches and gasoline and transport chemicals.

The only remaining thought I have is a very brief statement about home furnishings and draperies.

I hope this legislation won't bog down on that question. Our cases of death and injury have come from wearing apparel. Now, we are all wearing flammable apparel here today. We can't clothe this Nation in nonflammable fabrics. The question is of danger, and not of flammability in and of itself. Well, that same question is a measure to be applied to home furnishings. The real danger is in the garment that the child or woman or man can't take off in time before being severely burned. You would have, I am sure, if you go into the question of home furnishings, upholstery and drapery and so forth, a much different standard of danger. You can get up and walk away from the chair if you drop a cigarette or cigar on it. While there may be a field for that, our cases of injury have not come from that field and I hope nothing will further delay this very urgent need for national legislation which we heartily support and which is probably the only thing that will save us from the hopeless confusion of 20 to 48 State enactments and nobody knows how many municipal ordinances.

I thank you, and I assure you, Mr. Chairman, had I written it, it would have been longer.

The CHAIRMAN. I don't think it would have been any better.

Mr. HESELTON. Would you clear up in my mind just what you would describe as a filament?

Mr. O'BRIEN. The filaments are the individual threads which we spin out in making rayon and acetate yarn from a solution, and they are twisted, 40 to 60 of them, to make a yarn. Sometimes they are brought out parallel, and that is tow, and then they are cut into short lengths, and that is fiber. Roughly speaking, the continuous filament yarn goes into what used to be the silk field, and the fiber into the cotton and wool fields. That is a very rough distinction.

Mr. HESELTON. The thread that goes into rayon and other types of apparel?

Mr. O'BRIEN. Well, the filament term is generally referring to the rayon because we spin out multifilaments and twist them into a single yarn which will be much finer than that cotton yarn I held up. That is a fine cotton yarn as shirts go, as our products go it is a coarse material.

Mr. PRIEST. In what form is most of the yarn or other processed acetate products shipped from the producer, to the processor? Take for example du Pont. When they ship it to a manufacturer to be made into cloth, or into a fabric, in what form is that shipped? Is it on spindles?

Mr. O'BRIEN. In cones or packages, or what we call cheeses, or sometimes in a cake, just wound around and solidified. The staple fiber is rather a bale proposition, that is, the short length, and the continuous length on cones, cheeses, and cakes, as we call them. That continuous filament runs miles, you know.

Mr. PRIEST. I can say for myself alone that I think you have presented a very logical argument against removing from the bill the exceptions to filaments and fibers. I have in my own district and not too far from my own home, one of the du Pont rayon plants, and I have had opportunity on various occasions to visit that plant and see the process of manufacture and some of the finished products.

To me it is a wholly illogical idea to believe that you can develop a standard that would apply to a rayon sport shirt that I wear, and that would apply also to one of those little filaments that go into weaving that cloth. It just does not click with my sense of what is technically possible.

I think you have presented a very logical argument on that subject, sir.

Mr. O'BRIEN. Thank you, Mr. Priest. We don't believe it is possible.

The CHAIRMAN. Are there any further questions?

Now there is Mr. W. Ray Bell, president of the Cotton Textile Merchants Association of New York.

**STATEMENT OF W. RAY BELL, PRESIDENT OF THE ASSOCIATION
OF COTTON TEXTILE MERCHANTS OF NEW YORK, NEW YORK,
N. Y.**

Mr. BELL. I have prepared two statements on this subject, one for the session on the 16th, and I have condensed one down for today. I would like to have your permission to put them both in the record and I will only read the one that I have condensed.

The CHAIRMAN. That is your privilege, and will the clerk supply the members who are present with both of your statements.

Before you proceed, may I call attention to the fact that Dr. Marjorie W. Sandholzer is present from the Fire Protection Section of the National Bureau of Standards, Washington, D. C. Is your presence, Doctor, for the purpose of testimony, or to answer questions that the committee might ask?

Dr. MARJORIE W. SANDHOLZER (Chemist, Building Technology Division, Fire Protection Section, Bureau of Standards). Merely to answer any questions if it was necessary.

The CHAIRMAN. You will be prepared to do that at any time that the committee would call upon you, even though it would be in executive session?

Dr. SANDHOLZER. Yes.

The CHAIRMAN. I am speaking from the standpoint of questions when the committee goes into consideration of the bill.

Now, is Mr. William D. Appel present? Mr. Appel is Chief of Textile Organics and Fibrous Materials Division of the Bureau of Standards.

Mr. APPEL. Yes, sir.

The CHAIRMAN. And I assume your position is similar to that of Dr. Sandholzer's, that you stand by ready to answer any questions that the committee may wish to ask with respect to technical phases of the flammability standards and so forth?

Mr. APPEL. Yes, sir.

The CHAIRMAN. I doubt if it will be necessary for us to avail ourselves of your presence and help today. It may be necessary for us to have the benefit of your help when the committee takes up consideration of the bill as a committee. There may be some technical questions that we may want to address to you.

Very well, you may proceed, Mr. Bell.

Mr. BELL. At the outset I just want to say that some of us have been referred to as objectors to the legislation. While there are cer-

tain provisions we object to, speaking for myself, we are in favor of flammability legislation.

I am appearing before you as president of the Association of the Cotton Textile Merchants of New York. Our members are producers and sales agents for a large preponderance of the woven textiles made in this country from cotton and man-made fibers. A rough estimate of total output is 12½ billion linear yards per year of which about 10 billion yards are credited to cotton. Of this huge yardage, which may run as high as 250 million linear yards a week, apparel uses normally absorb between 35 and 40 percent. Since our responsibilities involve the selling and nationwide distribution of this vast output, we have a vital interest in the legislative proposals to outlaw the manufacture and sale of fabrics and apparel which are dangerously flammable when worn by individuals.

The brief submitted by us to your committee at the hearing on April 16 placed on record our approval of provisions contained in bills H. R. 3851 and H. R. 4159. We opposed some conflicting provisions contained in H. R. 2768. I wish at this time to emphasize some of the considerations which in our opinion are fundamental to a sound decision on the part of your committee, while asking that our written brief be made a part of the record at this time.

First of all, there seems to be no disagreement with the view that the flammability problem calls for a national solution. Everyone realizes that a multiplicity of State laws with varying standards and conditions would create an intolerable situation in its confusions to the trade and public alike.

Another area of general agreement is in the barring from manufacture or sale of wearing apparel or fabrics that are dangerously flammable when worn by individuals. Every bill before you has the identical wording for section 3 which, in the final analysis, is the heart of the proposed legislation. Enactment of this section means that cowboy suits and torch sweaters will no longer appear in commerce or be available to consumers. Together with the penalty provisions of section 7, where again no disagreement has been expressed, you have provided against a recurrence of the evils which gave rise and impetus to the clamor for this legislation.

A third area of agreement is in the standard test method CS 191-53 of the Bureau of Standards, which is common to all of the bills before you. This too is a vital part of any flammability legislation. While it is true that some question of correct legislative procedure in respect to future amendment of the flammability standard has been raised in these hearings, the fact remains that the standard prescribed in the bills for immediate use, subject of course to future change should the need arise, is not basically in question and has been subscribed to by every agency, government or trade. I can make an exception to one of the recent statements, here involved.

I may therefore state that your committee has before it in these bills all of the basically essential factors of effective flammability legislation that can be written at this time. Everything government and industry truly require is here agreed upon, and may be summed up as (1) a national law incorporating (2) a nationwide standard and test method for flammability which (3) will render unlawful and duly penalize all production and manufacture of apparel textiles and clothing which are dangerously flammable.

There is therefore little excuse for not enacting at this session of Congress a flammability bill of workable nature, reflecting the product of many years of joint effort of government and industry and trade.

The only difficulties that to me seem to lie before your committee are two "fringe" considerations. The simpler of these is the effective date. H. R. 2768 specifies 6 months from date of enactment and the Canfield-Johnson-Williams measure specifies 1 year. Here is a question of rationality. The test method was promulgated only last January. Test machines are in short supply. Technicians have to be trained in their use. Furthermore, goods now or in recent months in production do not clear retail shelves before next spring. The problems of testing are therefore considerable, and it must be clear to all of you that a year's effective date will produce less private and public confusion and will constitute a realistic approach. A year is just about the minimum time in which an industry of 3,500 plants can expect to make adjustment to this very new procedure.

The second area of disagreement lies in the so-called guaranty clause of section 8u which is substantially different in H. R. 2768 from the clause common to the other 3 measures. It is desirable that we here get this matter of guaranty into its correct perspective.

First, the guaranty clause is permissive. Industry is not compelled to give guaranties.

Second, the basic reason for these guaranties is that the industry's customers will widely demand that they be given. Retailers particularly will want guaranties from their suppliers. They will want them because of the great variety of merchandise they stock and the virtual impossibility of testing on their part. Given such a guaranty, they will be free of criminal liability under the flammability law.

Third, we think suppliers will be willing to so guaranty to customers to the extent that they can test the goods, but will not guaranty that which they cannot test. That is where the difference between H. R. 2768 and the other bills before you are important.

As I stated at the outset this industry turns out up to 250 million yards of cloth a week. That is, both cotton and man-made fabric. It is a physical impossibility to test each yard. The garment industry makes millions of garments a day. It is physically impossible to test each garment. To guarantee each yard and garment, industry would have to test each yard and garment. Since this cannot be done, the H. R. 2768 guaranty can not be used.

The guaranty clause in the Canfield-Johnson-Williams bills on the other hand provides for periodic testing of specific types of cloth as they move in mass production through the mill. Some mills may run as high as $2\frac{1}{2}$ or three million yards a day. This can be done, and we favor such a guaranty. It is honest and it is practical. Tests will be made as necessary by producers and guaranties given. Obviously, a standard plain woven, tightly interlaced cloth which never burns anywhere near the danger point will need to be tested only once in a while. A napped surface fabric which runs closer to the danger point will have to be tested constantly to get an even-running safe product. All this is a matter of practical production procedure, and the guaranty made is for customer reassurance. It may be countered that the yards in between are not tested and therefore some risk is present. My answer is that such risk is inherent and unavoidable,

and that furthermore, while failure of in between yardage would not under this guaranty system be a criminal responsibility of the retailer, his supplier would continue criminally responsible.

It is important to remember that this guaranty is intended as an inter-trade guaranty. The gray mill assures the converter that the gray goods were safe. The converter or finisher assures the garment maker that nothing has been done in finishing the cloth to make it unsafe. And so on down to the retailer. The retailer does not and never should extend any such guaranty to the public. The public's protection is the criminal liability of someone along the line for failure to live up to the law, or civil suit as at present.

Why should no guaranty be made to the public: The answer is^{as} that textiles do burn. The public is not acquainted with test methods and their limitations. Furthermore, this is not a qualitative test such as the exact measurement of the amount of wool in a garment leading to a public label under the Wool Labeling Act. It is a reaction test of cloth to flame. Accidents are not conducted in a controlled test chamber. Many of them are due to carelessness and negligence on the part of the public. I don't think any law can ever be devised that is going to control that.

To guarantee to the public that a cloth or garment had passed such and such a flammability test would be to infer that entirely unwarranted risks could be freely taken. And I might say that as consumers, and I represent my immediate family, about 11 of them, I don't look and I don't ever want to ask for a flammability guarantee on a shirt or a piece of underwear that I buy. I think it would be foolish to make a requirement of that sort. Any such inference would in our opinion breed public carelessness with fire, and this flammability law would boomerang in an accident and death toll from fabrics far in excess of anything this nation has witnessed heretofore when no flammability law existed.

It is therefore submitted that you have all the elements of a good law even if there were no guaranty clause at all. If a guaranty clause must be included, then the practical and workable guaranty of the Canfield-Johnson-Williams measure can be used and would have value for intertrade protection and also as a reminder, through constant demand of customers for guaranties, of the necessity that producers test as frequently as is desirable and practical. I think that the Canfield-Johnson-Williams guaranty is fully consistent with the purposes of flammability legislation and should be included in the law, the alternative being a law without the guaranty clause which would still be a highly desirable and effective piece of legislation.

Thank you very much, Mr. Chairman, and I wish to express the appreciation of our members for this opportunity to speak to you.

The CHAIRMAN. Are there any questions, gentlemen? I have just 1 or 2 if the other members of the committee have no questions.

In the first place I want to compliment you on the approach that you have made to this problem for the benefit of the committee. You have presented your views to the committee from the standpoint of recognizing that something should be done and you have been frank to state the areas of agreement and you have likewise been helpful in pointing out as you have the areas of disagreement and your reasons for the disagreements and the reason for your advocacies of certain provisions.

I can tell you that it will be very helpful to the committee in its consideration of this matter.

Now, in that connection so that I may understand fully the force of what you have said, do I understand the guaranty clause in the Canfield-Johnson-Williams bill, refers to the bills subsequently presented to the committee?

Mr. BELL. The so-called revised bills, you mean.

The CHAIRMAN. Yes, that a guaranty clause is required to be made by the manufacturer, not of the garment but of the fabric.

Mr. BELL. I understand that that is so.

The CHAIRMAN. Well, that was your understanding when you make the recommendation that that be excepted?

Mr. BELL. Yes, sir.

The CHAIRMAN. Now, as you have pointed out, there would be no doubt at all that if a law of that character, or of this character, is passed, that the different trade activities down the line between manufacturer and ultimate consumer would be seeking the guaranty that the manufacturer of the bill is required to give.

Now, those are in the intervening chamber, between the manufacturer and the retailer, in his sale to the purchasing public, they are not required to give a guaranty, as I take it, from one to the other.

Mr. BELL. Yes, sir.

The CHAIRMAN. For instance, and I do not know the exact chain that follows the manufacturer of the cloth or fabric, but assuming that it goes into the hands of a jobber and he in turn sells it to a manufacturer of garments, is there any requirement that he give a guaranty, or is he protected by the guaranty that the original manufacturer gave?

Mr. BELL. He is protected by the guaranty given by the original manufacturer of the fabric, of the fabric made for wearing apparel and to be worn by individuals.

The CHAIRMAN. Is there anything in the bill that would preclude the jobber from labeling the goods so that it would be indicated to the garment manufacturer that a guaranty had been given by the manufacturer?

Mr. BELL. No. He would unquestionably, although from the jobber's selling to the garment manufacturer, the more normal cases for the mill itself or the converter to sell to the garment manufacturer.

The CHAIRMAN. As I said in the beginning, I did not know the exact method, I just assumed that before or after the manufacturer of the garment there would be a jobber entering into the transaction.

The point I wanted to make was whether any of that intervening chain are required to give a guaranty or whether they would be precluded from giving a guaranty if they wished to do so based on the guaranty that had been originally given.

Mr. BELL. As I understand the provisions of the bill they are not required to give the guaranty, but they are not precluded from giving it, either. In other words, the normal course would be for whatever sort of guaranty they were able to get from the mill that made the fabric or produced the fabric in the State they bought it, they would pass that along to their people and they would have to.

The CHAIRMAN. What would be the effect, would you care to express an opinion, of an in-between party giving a guaranty that had

been based on an original guaranty where as a matter of fact the original guaranty should not have been given or was improperly given?

Mr. BELL. The man who made the original guaranty is liable for all the penalties of the law. The ones in between are not liable for the criminal penalties.

The CHAIRMAN. I assume, however, that if they did give a guaranty that was not justified by a guaranty originally given improperly, they would still be subject to civil suit.

Mr. BELL. I suppose so.

The CHAIRMAN. There is nothing that you know of in the bill to prevent them from being liable for civil responsibility?

Mr. BELL. As a matter of fact, Mr. Chairman, I think the main thing this does is to make everybody in the industry, both those manufacturing goods and selling them, more careful and cautious, and that is one of the real reasons I favor this guaranty that the manufacturer has to certify that he has made responsible tests. You take a man who is making duck, army duck, or something like that, which comes near to asbestos in burning, he wouldn't have to make a guaranty but once a year. But when you get up into some nap fabrics they are going to have to be careful and watch the stuff all of the time.

The CHAIRMAN. I am wondering if there might be a competitive situation that would arise by which manufacturers of garments and retailers for their own protection, as well as a selling point, might not be anxious to see that the original guaranty was given, and maybe given guaranties themselves based on that.

Mr. BELL. Unquestionably so.

The CHAIRMAN. I could see the advantage, in other words, down at the point of the retailer, coming down from the manufacturer until we get to the retailer—I will use myself as an illustration. I have gone into a store to buy a cowboy suit for my grandson and the first question that I have asked of the salesperson was, "Is this flammable material." Well, I have never had one yet that was able to tell me. They can't tell me whether it was or wasn't.

Mr. BELL. There never have been any reasons for the tests.

The CHAIRMAN. So that you are assuming the responsibility of purchasing that article.

Now, it occurs to me that if there are others similarly interested as I have been to make the direct inquiry as to whether it is made of flammable material, it might get to a point where the retailer would feel as a sales point it would be advisable for him to make some representation in the form of a label or the manufacturer make some representation in the form of a label that a guaranty has been given by the original manufacturer that this is manufactured in compliance with the laws of the country.

Mr. BELL. That is quite reasonable in the case of any kind of wearing apparel or fabrics in which a question should ever come up. I don't think that you are going to see these cowboy suits on the market any more, I think that they are out, and the torch sweaters, too, because the fear of God has been put into them.

The CHAIRMAN. Do not tell me there will never be any more cowboy suits.

Mr. BELL. I mean made of long yarns, or long fibers. I think that has been publicized, and particularly if this law is passed, I think the Federal Trade Commission has done a good job in stamping out those things already. They put cease-and-desist orders on a number of firms that made them.

The CHAIRMAN. Now the only other question that remains that I don't remember hearing in your statement—you may have done so and I was busy looking at these other statements at the time—was reference to that provision about the present standards and the authorities to be given, if any, to the Secretary of Commerce to change them.

Mr. BELL. I slid over that one, but I will tell you what I think. I feel that under the provisions in these revised bills the Secretary of Commerce has the ultimate authority, and he is the final authority and I don't think any kind of standards could be set up unless it had his O. K. and approval.

Now, as to the question of whether he ought to have something with the consent of 65 percent of the industry, I do feel that it is highly important that any revision of the standard or any new standard that was ever put up for any reason should only be done after consultation with not only the people that make the cloth, but also with all of the dealers and the makers of garments and what you might call the whole industry and trade, which would include everybody down to the retailers. I think that that is what he would do as a practical proposition.

The CHAIRMAN. So do I, and I cannot conceive of any Secretary of Commerce regardless of political affiliation not doing so.

Mr. BELL. We had one some time ago that I wouldn't trust.

Might I just add this, Mr. Chairman: I have been familiar over the past 20 years with a number of the commercial standards that have been developed which had effect on practices and details in our industry and they worked out very satisfactorily. There has been the shrinkability standard which is still current and quite effective, and also the standard on colorfastness, and those are just two things that I thought of.

The CHAIRMAN. The bill that has been presented, and I guess all of them for that matter, have adopted the standards that have been presently or recently fixed.

Mr. BELL. Yes, sir.

The CHAIRMAN. We can start with that. In your opinion should there be in addition to that a provision that would give authority to the Secretary of Commerce if and when he considered it necessary to do so, to change those standards, or do you think that that authority should be given to him under certain restrictions that without being too detailed would require a hearing before they were adopted, or require a length of time to elapse.

Mr. BELL. Mr. Chairman, in answer to that I subscribe wholeheartedly to Dr. Buck's answer to you this morning. I feel exactly the same way he does; that would mean that the revisions, or any revisions would be subject to the practice in which the standard already had been put into effect.

The CHAIRMAN. If that system were adopted, as I understand it, it wouldn't be possible for the Secretary of Commerce to change it unless 65 percent of industry would consent.

Mr. BELL. I don't think any change would be sound unless 65 percent of the industry consented to it, and I think any sound change on it would get support by more than 65 percent of the industry.

The CHAIRMAN. But the principle is there, whether you would want this act to remain as it would be passed by Congress without any change being provided for in it, without giving the Secretary of Commerce the opportunity to change it by a hearing of the interested parties, or by congressional action. I was of the opinion and I don't want to put words in your mouth, but before your change of thought which was agreeable to me, as you argued that there should be something done and done quickly it seemed to me that we could accomplish that very readily by adopting a standard that is up to date at the present time and if and when the future experience would determine that it was necessary either to give the Secretary of Commerce the authority to change, or for Congress to change, we would get the legislation by elimination of the one question that above all others seems to be the barrier at the present time to full agreement.

I say that is the only question for the reason that when you speak of 6 months or a year, that feature of it, that isn't hard to settle. The other questions that you raised are not too hard to settle. That is this question of guaranty. I think we are all aimed toward the same thing. But when it comes to the question of whether the Secretary of Commerce should have this power or not I think there is a fundamental question there that would have to have serious consideration.

I am wondering whether we could not get the legislation quicker at this time by eliminating that for the time being.

Mr. BELL. If it is going to mean a great delay in the legislation, I don't see why, frankly, and this is my personal opinion, and I think it would probably be industry opinion too, as far as I know, but I don't see why section 4 (b) could be eliminated. You would have a good law if that were eliminated. It would be my opinion that it would be preferable to have provisions for any improvements in the standard, I think the law would certainly be as good and it would be better than putting it off until next year.

The CHAIRMAN. I certainly thank you for the help that you have been to us.

Mr. BELL. Thank you very much.

(Mr. Bell's prepared statement follows:)

BRIEF SUBMITTED BY THE ASSOCIATION OF COTTON TEXTILE MERCHANTS OF NEW YORK IN FAVOR OF H. R. 3851 AND H. R. 4159, AND OPPOSING H. R. 2768

The Association of Cotton Textile Merchants of New York is a trade association whose member firms, either as sales divisions of textile mills or as agents for mills, sell the great bulk of the country's annual production of around 10 billion linear yards of cotton woven cloth and also substantial amounts of the 2¼-billion yards annual output of cloth produced from man-made fibers. Since their responsibilities are in the field of sales and distribution, and since in the textile industry the sales division frequently has a large voice in the planning of mill production, the flammable properties of textiles and their products, and the effort to eliminate from the markets those items which are dangerously flammable, have been matters of constant consideration with us for many years.

In the field of apparel-type fabrics our association has consistently advocated the outlawing of dangerously flammable goods from production and sale. To solve this problem, however, it has been necessary to arrive at a workable method of distinguishing goods that burn normally, as virtually all textiles do, from goods that burn dangerously. We appeared at the original flammability hearings here in 1947, and while endorsing the principle which motivated the proposed

legislation, were compelled to oppose the bills then presented, chiefly because no standard or practical test method then existed. We joined in the industry's promise to do everything to discourage and remove from the market goods of the type that produced the brushed rayon "cowboy suit" episode of that time and to lend every effort to the development of an adequate standard. The cowboy suits were quickly eliminated; since then there has been but one serious episode in the form of brushed rayon "torch sweaters" peddled from door to door in the winter of 1951-52 which have been promptly stamped out by action of the Federal Trade Commission. After extensive and costly effort, a test method and standard has since been promulgated under effective date of January 30, 1953, as CS-191-53 by the National Bureau of Standards of the United States Department of Commerce.

We have now come to the point where legislation covering flammability can properly be enacted. Before this committee are three bills, that of your chairman, Mr. Wolverton, known as H. R. 2768, together with that of Mr. Canfield, H. R. 3851, and that of Mr. Johnson, H. R. 4159. The identical Canfield and Johnson bills in our view constitute the best possible approach to a legislative solution of the flammability problem in a long series of efforts by Federal, State, and local bodies to draft such laws. They combine the results of extensive hearings, legislative conferences, and experience with the newly developed standard and test method. They reflect the best thought of those in Government and trade who have for years lived with this problem. We therefore are glad to give the Canfield and Johnson bills in their present form our definite endorsement, with the feeling that they best meet the public interest and are practical for industry in the light of present technical knowledge of the flammability problem.

We should at the same time be derelict in our duties if we failed to emphasize that these bills should be passed without basic modification insofar as they pertain to textile fabrics and their products. And in this connection it may be of value to the committee if we refer briefly to some of the more recent problems that have arisen in connection with other legislative proposals.

Our discussions and experience have covered all prior Federal bills, together with bills introduced in recent sessions of the New York, New Jersey, and Michigan State legislatures and in the New York City government. We believe it fortunate that none of these have yet been enacted into law.

A major reason for our endorsement of Federal legislation has been our realization throughout the years that a national approach was vital to an industry operating on a national basis. There are in the entire textile industry some 3,500 plants spread from Maine to Texas and their products are distributed chiefly in interstate commerce and only in a very minor way intrastate. State and local laws were bound to differ, and one of America's greatest industries could be hog tied by a multiplicity of differing laws and standards. The only sensible solution to the problem is a Federal statute, and we firmly believe and hope that any States seeking to plug possible intrastate commerce loopholes will do so by copying the Canfield and Johnson bills after their enactment.

In respect to these two measures, we are impressed by certain essential changes from bills introduced in the last session of Congress.

First, last year's laws were based on a standard that had not then been finally promulgated. The standard has now been promulgated, as stated, effective on January 30, 1953, affording a sound basis for legislative definition.

Second, the Canfield and Johnson bills carry an effective date 1 year from date of enactment. This we consider a fair and workable arrangement, and we emphasize that no shorter period would be just or reasonable. It is important to emphasize that the standard is now less than 3 months old. Although technicians have made wide studies and various testing laboratories have had experience with it, practical operation demands that producing mills establish running tests in their own plants. There is a substantial human element in the test method, and each plant to assure its conformance with the letter of the law will have to engage and train technicians, acquire test machinery which is now and for some time will be in scarce supply, and acquire the skills necessary to attaining reproducible test results. All this takes time. This industry could not adjust to the law in 6 months; 12 months is minimum.

Third, the guaranty clause in these bills has been changed from earlier legislative proposals which were unrealistic. We realize that the guaranty is not compulsory for sellers as the law is written, but practically we must assume that the demand for guaranties will be strong from customer sources once the law takes effect.

Earlier guaranty clauses, and the clause in H. R. 2768, would call for a seller as surety to the buyer in respect to every yard of cloth and each garment made. Obviously mills cannot so test their goods. Textile production is mass production; the total off loom output is around 5 million yards per operating day. And, while only 35 to 40 percent of this production goes finally into apparel use, practically all would have to be tested, as the end use is not generally determinable at time of production. The needle trades also are a mass-production business, and each individual garment cannot be tested, although the guaranty form of the older measures would apply to each and every garment.

The guaranty clause of the Johnson and Canfield bills, on the other hand, permits running tests and assuery that the specific type of goods conforms to the standard. We are fully confident that such testing of representative lots as they are manufactured will be fully adequate, will be workable and practical for the industry, and will meet the public interest. This clause will work and permits us to support this legislation; we should be compelled to oppose legislation containing the earlier and unworkable guaranty form.

It has not been a custom with us to come to Government asking it to solve our problems for us. In this instance of flammability legislation, however, we feel that the interest of the public and the industry are fully joined. This industry's products are sound and safe so far as textiles can be safe, but we have had two fringe instances in the brushed-rayon field, first in cowboy suits and then in sweaters, which remind us that a danger is present in that a fringe of irresponsible or careless persons have and can again bring discredit upon a great industry. Again, as an industry, we cannot afford to have our national distribution fettered and divided by 48 conflicting State laws and standards plus untold local ordinances. We are therefore approving this Federal legislation to correct a potentially intolerable situation and protect the public from a greatly reduced and insignificant minority of irresponsible operators.

Under the provisions of commercial standard 191-53 we believe we have as good a standard of flammability and as good a test method as is obtainable at this time. We think that the Canfield and Johnson bills are the best legislation from the standpoint of industry practicability and public safety that can now be had. We believe that further progress in the industry, technical and otherwise, will lead toward future improvements in meeting any flammability problem and that they may be reflected in future amendments. The promulgation of the present standard has, however, marked an important milestone in our progress, and we hope that a second one will be reached with the enactment of sound and practical Federal legislation in the form of the Johnson and Canfield bills as drawn.

The CHAIRMAN. Mr. Fickett, we will be glad to hear you now. You have been exceedingly patient and considerate.

STATEMENT OF W. P. FICKETT, PRESIDENT OF THE NATIONAL ASSOCIATION OF BUTTON MANUFACTURERS, NEW YORK, N. Y.

Mr. FICKETT. Mr. Chairman, I have two statements that I would like to make.

The CHAIRMAN. You are speaking, as I understand it, as president of the Textile Fabrics Association and as president of the National Association of Button Manufacturers, 40 Worth Street, New York.

Mr. FICKETT. I have a relatively short statement on behalf of the Textile Fabrics Association which in substance places us in accord with other branches of the industry, but we would like to have it in the record if we may.

The CHAIRMAN. You may certainly have it in the record in full, and if you wish to deliver it in full there is no objection.

Mr. FICKETT. Perhaps then I will merely insert it in the record because I know it is getting late, and I do not want to take your time too much.

(Mr. Fickett's prepared paper follows:)

STATEMENT OF W. P. FICKETT, PRESIDENT OF TEXTILE FABRICS ASSOCIATION OF NEW YORK, WITH RESPECT TO H. R. 3851 AND H. R. 4159

This statement is made on behalf of the Textile Fabrics Association of New York City, which is composed of approximately 125 converters and integrated producers of finished cotton and rayon piece goods.

Having in mind the protection of the consuming public, we are not opposed to this type of legislation. Convinced, as we must be, that the distribution of cotton and rayon textiles is unquestionably an interstate problem, we most certainly prefer that Federal legislation, uniform throughout the country, be promulgated rather than have the industry face the possibility of different standards being promulgated by the various State governments and municipalities.

The problem, however, in this type of legislation is, on the one hand, to protect the public against dangerously flammable textiles for use as wearing apparel, and at the same time not prevent the distribution of a great variety of classic textile constructions which for generations have been successfully used in wearing apparel and through long experience have proved themselves perfectly safe.

The bills examined by our association—namely, H. R. 3851 and H. R. 4159—are identical in meeting this problem by incorporating in section 4 of each bill as a standard of what is highly flammable the commercial standard accepted by the industry and promulgated by the Secretary of Commerce.

The bills also establish a relief from the penalty provisions to those who have a guaranty from the manufacturer or seller of the fabric or wearing apparel to the effect that reasonable and representative tests made under that standard show that the specific type of fabric covered by the guaranty or used in the wearing apparel, when so tested, was not highly flammable.

We feel that the commercial standard adopted by the industry works out in practice to be a satisfactory standard and does not result in declaring unsafe what the experience of the public and the industry has found to be safe for a great many years.

So long as the present standard contained in section 4 of the bills and the present relief from penalties, as contained in section 8 of the bills, are present, our members are not opposed to the bills. If, however, either of these provisions were changed to the point where fabrics which have been sold in the millions of yards to the public for the last two generations, without damage to anyone, are arbitrarily to be declared dangerous, these bills could not be supported as a proper regulation of commerce.

MR. FICKETT. With that out of the way, I will pass on to the button situation.

THE CHAIRMAN. I would like to hear something about the buttons.

MR. FICKETT. I thought that you said a moment ago that you wanted something new or possibly strange to talk about, and it occurred to me that perhaps you might be interested in buttons.

We have all kinds of buttons, campaign buttons, suspender buttons, and everything else. I have some copies of my statement on this, Mr. Chairman, which I would like to read.

The National Association of Button Manufacturers, which I represent, is composed of manufacturers of pearl buttons. The plants are located largely throughout the Middle West, and in addition to manufacturing pearl buttons made from fresh-water mussel shells gathered largely in the rivers and streams of the Mississippi Valley watershed, some of the association members manufacture plastic buttons.

We have requested this opportunity to make a statement before your committee for the purpose of respectfully suggesting your consideration of the inclusion of buttons as well as fabrics and wearing apparel in the bill now before your committee.

While there are many types of buttons made from various materials which are not flammable, there are certain types of buttons which are flammable, as, for example, there are particular types of plastic buttons which would add greatly to the flammability of wearing apparel, thus increasing the danger of personal injuries through burns to persons wearing garments trimmed with these flammable buttons.

During the past few years there have been several bills introduced into Congress pertaining to the flammability of fabrics and wearing apparel, and some of these bills specifically included buttons. The present bills, however, do not mention buttons specifically, and while it might be argued that inasmuch as the bills cover wearing apparel, buttons used upon such wearing apparel as closures or trimmings could perhaps be included within the scope of the bills; we feel that it is highly desirable to specifically mention buttons in order that there may be no misunderstanding concerning their inclusion in the provisions of the bills.

We are pleased to submit herewith samples of buttons which upon being subjected to flame burn intensely, and which you may easily demonstrate by the application of a match to any one of these samples.

We wish to make it perfectly clear that all plastic buttons are not flammable. The type in question, however, definitely is highly flammable, and how anyone can claim otherwise is difficult to understand.

On May 26, 1952, I appeared as a witness before the Senate Committee on Interstate and Foreign Commerce at a hearing held on Senate bill S. 2918 covering flammable fabrics and wearing apparel. My testimony appears on page 42 of the committee hearings held on that date.

On August 18 last, an explosion occurred in a plant manufacturing the plastic material from which buttons are made. According to a newspaper account of this explosion, the flames enveloped 6 of the 10 employees, and 4 of the men were sent to the hospital in a critical condition suffering from second and third degree burns of the face and body. The newspaper story stated that "when cooled, the plastic was to have been rolled and stamped into button blanks."

On Friday, March 13, 1953, according to the New York Times, a fire broke out among the stocks of synthetic buttons stored in the 10th floor quarters of a button manufacturing company located on West 40th Street, New York City. Two hundred persons were forced to evacuate the 15-story building and 11 persons suffered smoke poisoning from the heavy blanket of smoke that came through the building.

These hazardous instances have occurred since my testimony before the Senate committee last May and are given to you at this time to show the danger involved in handling this type of material.

We therefore respectfully request that appropriate amendments be considered by your committee which will specifically provide for the inclusion of buttons in the legislation.

We realize that the inclusion of such amendments in the bill would necessitate setting up a commercial standard for testing the flammability of buttons. We do not believe that this is a difficult task, and we are confident that our proposed amendment will result in added protection to the public.

As button manufacturers, we have every desire to produce and sell merchandise which will be satisfactory to the consuming public and thoroughly safe for consumer use.

In addition I have one or two more comments if I may make them. In discussing his bill, H. R. 4159, before this committee on April 16, Congressman Johnson, of California, called attention to inflammable buttons. He stated that he and Congressman Priest had witnessed demonstrations of such flammability. Buttons whether used as utility closures or trimmings on wearing apparel could add greatly to the dangers of severe personal injuries in the event the garment became ignited. While as we have said there are a great many kinds of buttons which will not burn, it would seem the better part of wisdom to include buttons as a definite part of wearing apparel in the bills now before the committee, as a preventive measure.

The objective of this legislation as we understand it is not only that of curing present dangers, but also to prevent such dangers from arising in the future. Bills introduced in the 80th Congress by Senator Capehart, S. 353, and Congressman Arnold, H. R. 1111, included buttons in the definition of articles of wearing apparel as follows:

The term article of wearing apparel means any costume or article of clothing worn or intended to be worn by individuals and shall include buttons, bracelets, brooches, necklaces, pins, and other articles of personal adornment.

In his testimony before the Senate Committee on Interstate and Foreign Commerce on S. 2198, on May 26 last year, Mr. Henry Miller, Assistant General Counsel of the Federal Trade Commission, mentioned the following instance of personal injury resulting from flammable buttons. This is quoted from his testimony:

There was also a case of a woman sitting in front of a chafing dish wearing nitrocellulose buttons. These practically exploded in her face and set her afire and she died of her injuries. This is given in *Coronet*, under the heading of an article "Fire Trap."

That is the end of the quotation.

While we have not seen recently any of this particular button, that is, the nitrocellulose, yet we do not know that they are not made today, and neither do we know that they might not appear on articles of wearing apparel in the future. We urge your committee to consider an amendment to the definition of wearing apparel as it appears in the bills now before your committee, and which will definitely include buttons.

The CHAIRMAN. Are there any questions, gentlemen?

I have no questions, Mr. Fickett, and we will take under consideration the suggestions you have made. It is a bit unique for somebody to come in and ask to be brought under the provisions of the bill, as you have done.

Mr. FICKETT. Well, Mr. Chairman, to be perfectly frank about it, we have a selfish interest. I don't want to see my members make buttons which subsequently might get them into the courts and damage suits and that sort of thing, and I would like to see something done to prevent it, to say nothing of course of the personal injuries involved.

The CHAIRMAN. I can understand your desire to have the committee consider the inclusion of buttons. I am glad that you do, however, recognize the fact that it would require a different standard of flammability than that which has been provided in the bill and I would have to make some inquiry to ascertain whether there is that type of machine that can do that kind of testing at the present time.

Mr. FICKETT. Well, something was said here, Mr. Chairman, I believe if my memory serves me correctly, that possibly this bill might not become effective for, let us say a year, or 9 months, or some time or other. If that be true, certainly a standard for buttons could be easily developed within that length of time, and become effective, because I am sure that the button industry would be very glad to cooperate with the Bureau of Standards.

The CHAIRMAN. But I thought you had in mind that whatever standard was to be adopted would be placed in this legislation.

Mr. FICKETT. Well, it could be, or unless there was some blanket provision in there which would give the Secretary of Commerce, in consultation with the industry, provision for that.

The CHAIRMAN. Thank you for your appearance and the patience you have shown and your interest that has kept you here through several days of hearings.

Mr. McCURE. In accordance with your suggestion, I would like to introduce the commercial standard into the record. I have supplied copies to the staff, sir, and I would also like to introduce into the record the statement that would have been made on the development of commercial standards, the procedure under which they are made. This statement would have been made had there been opportunity. Mr. Ehrman, the Chief of the Textiles and Apparel Division, will hold himself in readiness for the committee, as will the other two experts.

(The data referred to follows:)

THE DEVELOPMENT OF COMMERCIAL STANDARDS

(Statement by H. A. Ehrman, Chief, Textiles and Apparel Section, Commodity Standards Division, Office of Industry and Commerce, Department of Commerce, before the Committee on Interstate and Foreign Commerce of the House of Representatives, concerning the establishment of commercial standards for voluntary use in industry.)

The term "commercial standard" as used in this statement applies exclusively to those standards of practice which are voluntarily suggested by industry for passage through the 32-year-old procedure of the Department of Commerce.

The purpose of a commercial standard is to establish standard methods of test, rating, certification, and labeling of commodities, and to provide uniform bases for fair competition.

The adoption and use of a commercial standard is voluntary. However, when reference to a commercial standard is made in contracts, labels, invoices, or advertising literature, the provisions of the standard are enforceable through usual legal channels as a part of the sales contract. Legal action of this sort could be taken in respect to any standard of practice, even though the Department was in no way associated with the development of such standard.

A commercial standard invariably originates with the proponent industry, and remains in a voluntary status throughout its existence, including revisions which may be effected when necessary.

Never designed primarily to be mandatory, a commercial standard can, on occasion, be considered a sound foundation for a mandatory order, particularly when health and safety are involved. This technique has been utilized in conservation and limitation orders of the War Production Board during World War II.

Because it appears that the procedure for establishing commercial standards would be incorporated in legislation by provision of H. R. 3851, H. R. 4159, and H. R. 4500 (proviso of sec. 4 (b)) we have undertaken to explain in some detail this procedure.

The sponsors of a commercial standard may be manufacturers, distributors, or users of the specific product. The sponsors submit to the Department's Commodity Standards Division the necessary data to be used as the basis for developing a standard of practice.

The Commodity Standards Division, by means of assembled conferences or letter referenda, or both, assists the sponsor group in arriving at a tentative standard of practice and thereafter refers it to the other elements of the same industry for approval or for constructive criticism that will be helpful in making any necessary adjustments.

The method or procedure under which commercial standards are established consists of six principal steps, i. e., request, tentative proposal, adjustment, recommendation, acceptance, promulgation.

Establishment of a commercial standard is initiated only by a written request for the cooperation of the Commodity Standards Division. Requests come most frequently from trade associations, technical societies, or user interests. In a few instances, requests have been submitted by a responsible firm engaged in the production of the commodity, later supported by the concurrent action of other interests. The organization making the request is expected to submit a proposal, or information necessary to the drafting of a proposed standard, to serve as a basis for discussion by others concerned.

The tentative proposal is presented to representative firms or organizations for advance comment leading to preliminary adjustment, followed by circulation more widely for comment and adjustment by the entire industry. When the original proposal has been adjusted to meet the desires of the majority, it is circulated to the entire trade for written acceptance.

Individual firms make known their approval of the proposal by authorizing one of their officers to fill in an acceptance form worded as follows: "We believe that the commercial standard CS (serial number) constitutes a useful standard of practice, and we individually plan to utilize it as far as practicable in the (a) production, (b) distribution, or (c) purchase of (name of commodity). We reserve the right to depart from it as we deem advisable. We understand, of course, that only those articles which actually comply with the standard in all respects can be identified or labeled as conforming thereto."

If acceptances are received representing at least 65 percent of the volume of business and representative of all interests (producer, distributor, and user), and there is no active valid opposition, the Department of Commerce promulgates the standard as a voluntary standard of the trade, issued as one of a printed series of commercial standards. The Department reserves the right to withhold promulgation if evidence is presented that promulgation is not in the public interest.

The regular procedure of the Division assures continuous servicing of each effective commercial standard, through review and revision, whenever, in the opinion of the industry, changing conditions warrant such action.

Coincident with the establishment of a commercial standard, a standing committee, representative of production, distribution, testing, purchase, and general interests, is appointed. That committee reviews all suggestions for revision of the commercial standard and endeavors to reconcile differences. The final recommendation of the standing committee is circulated for written acceptance, as in the procedure for the establishment of previous editions of the standard.

Commercial standards are printed and made available by the Department of Commerce through the Government Printing Office and the Department of Commerce field offices.

Each commercial standard is wholly advisory. Effectuated persons or organizations may conform or diverge as they prefer. The Department of Commerce has no regulatory powers with reference to the subject.

TS-5170

January 15, 1953

FLAMMABILITY OF CLOTHING TEXTILES

COMMERCIAL STANDARD CS191-53

(Effective date, January 30, 1953)

NOTE.—All fabrics of natural or regenerated cellulose, as well as certain types of finished and unfinished fabrics made from other natural or synthetic fibers, are combustible. Some combustible fabrics, when used for clothing, are potentially dangerous to the wearer because of the speed and intensity of flame with which the fabric burns, its ease of ignition, and because of the design of the garment. Two of these factors, the ease of ignition and the speed of flame spread, can be measured with the instrument described.

It is suggested that measurement of these two factors, together with visual observation of flame intensity, will permit the separation of various fabrics into three classes of flammability, thus assisting in a judgment of fabric suitability for clothing.

1. PURPOSE

1.1 The purpose is to reduce danger of injury and loss of life by providing, on a national basis, standard methods of testing and rating the flammability of textiles and textile products for clothing use, thereby discouraging the use of any dangerously flammable clothing textiles.

2. SCOPE

2.1 The standard provides methods of testing the flammability of clothing and textiles intended to be used for clothing,¹ establishes three classes of flammability, sets forth the requirements which textiles shall meet to be so classified, and warns against the use of those textiles which have burning characteristics unsuitable for clothing.

2.2 *Specific exceptions.*—This standard shall not apply to

- a. Hats, gloves, and footwear.
- b. Interlining fabrics.²

3. REQUIREMENTS

3.1 *Flammability.*—

3.1.1 *Normal flammability, class 1.*—This class shall include textiles which meet the minimum requirements set forth in paragraphs 3.1.1.1. or 3.1.1.2. Textiles meeting these requirements are generally accepted by the trade as having no unusual burning characteristics.

3.1.1.1 *Textiles without nap, pile, tufting, flock, or other type of raised fiber surface.*—Such textiles in their original state, and/or after being dry-cleaned and washed as described in paragraphs 4.4 and 4.5, when tested as described in paragraph 4, shall be classified as class 1, normal flammability, when the time of flame spread is 4 seconds or more.

3.1.1.2 *Napped, pile, tufted, flocked, or other textiles having a raised fiber surface.*—Such textiles in their original state and/or after being dry cleaned and washed as described in paragraphs 4.4 and 4.5, when tested as described in paragraph 4, shall be classified as class 1, normal flammability, when the time of flame spread is more than 7 seconds, or when they burn with a rapid surface flash (from 0 to 7 seconds), provided the intensity of the flame is so low as not to ignite or fuse the base fabric.

3.1.2 *Intermediate flammability, class 2.*—This class shall include textiles which meet the minimum requirements set forth in paragraph 3.1.2.1. Textiles meeting these requirements are recognized by the trade as having flammability characteristics between normal and rapid and intense burning.

3.1.2.1 *Napped, pile, tufted, flocked, or other textiles having a raised fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in paragraphs 4.4 and 4.5, when tested as described in paragraph 4, shall be classified as class 2, intermediate flammability, when the time of flame spread is from 4 to 7 seconds, both inclusive, and the base fabric ignites or fuses.

3.1.3 *Rapid and intense burning, class 3.*—This class shall include textiles which have burning characteristics as described in paragraphs 3.1.3.1 and 3.1.3.2. Such textiles are considered dangerously flammable and recognized by the trade as being unsuitable for clothing because of their rapid and intense burning.

3.1.3.1 *Textiles free from nap, pile, tufting, flock, or other type of raised fiber surface.*—Such textiles in their original state and/or after being dry-cleaned and washed as described in paragraphs 4.4 and 4.5, when tested as described in paragraph 4, shall be classified as class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds.

3.1.3.2 *Napped, pile, tufted, flocked, or other textiles having a raised fiber surface.*—Such textiles in their original state and/or after being dry-cleaned

¹ Hereinafter "clothing and textiles to be used for clothing" shall be referred to as "textiles."

² Interlining fabrics are not considered dangerously flammable when used as interlinings. When used for other purposes, they should be tested and rated as any other fabrics.

and washed, as described in paragraphs 4.4 and 4.5, when tested as described in paragraph 4 shall be classified as class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds and when the intensity of flame is such as to ignite or fuse the base fabric.

4. METHODS OF TEST

4.1 *Test specimens.*—

4.1.1 *Number and size of specimens required.*—Five specimens, each measuring 2 inches by 6 inches, are required for each test.

4.1.2 For textiles *without* a raised fiber surface the long dimension shall be that in which they burn most rapidly and the more rapidly burning surface shall be tested. To establish the long dimension and the surface, preliminary tests are made as described in paragraph 4.7 with specimens cut in different directions.

4.1.3 For textiles *having* a raised fiber surface, the direction of the lay of the surface fibers shall be parallel with the long dimension of the specimens. For this type of textiles with varying depths of pile, tufting, etc., the specimens are taken from that part and tested on that surface which has the fastest rate of burning.

4.1.4 If the specimens in the preliminary test, when tested as described in paragraph 4.7 do not ignite or are very slow burning, or could have a fire-retarding finish, a swatch large enough to provide the specimens required for the test, with allowance for shrinkage in dry-cleaning and washing, as subjected to the dry-cleaning and washing procedures described in paragraphs 4.4 and 4.5. The specimens for the flammability test are then taken from it.

4.1.5 The specimens required for testing, each 2 x 6 inches, are marked out on the back (or under side) of each sample with the long dimension in the direction in which burning is most rapid, as established in the preliminary trials. The end of the specimen toward which and on the face of which burning is most rapid is identified by attaching a staple to it. The specimens are then cut out.

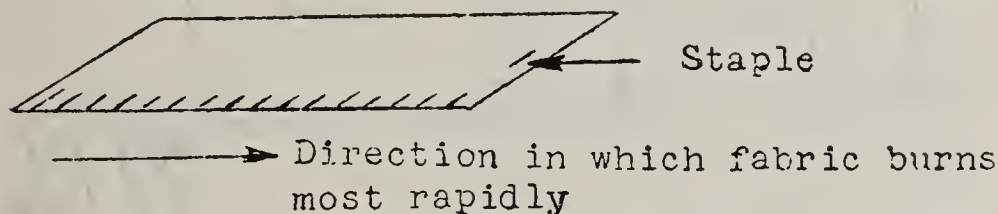


FIGURE 1. Specimen showing staple.

4.2 *Flammability tester.*³—The flammability tester consists of a draft-proof ventilated chamber enclosing a standardized ignition medium, sample rack, and automatic timing device.

4.2.1 *Draftproof chamber with vented top (A, Fig. 2).*—This metal chamber prevents air circulation around the specimen rack and flame, but permits free ventilation for rapid oxidation. The chamber is 14½ inches wide by 8½ inches deep and 14 inches in height. There are 12 half-inch holes equidistant along the rear of the top closure. A ventilating strip is provided at the base of the sliding glass door in the front of the apparatus.

4.2.2 *Specimen rack (B, Fig. 2).*—The specimen rack provides supports for the frames in which the specimens are mounted. The angle of inclination is 45 degrees. Two guide pins projecting downward from the center of the base of the rack travel in slots provided in the floor of the chamber so that adjustment can be made for the thickness of the specimen in relation to the flame front. A stop is provided in the base of the chamber to assist in adjusting the position of the rack.

³ This apparatus is manufactured by the United States Testing Company, 1415 Park Avenue, Hoboken, N. J., Blueprints of working plans for the manufacture of this apparatus are available at a nominal charge from the American Association of Textile Chemists and Colorists, care of Lowell Textile Institute, Lowell, Mass.

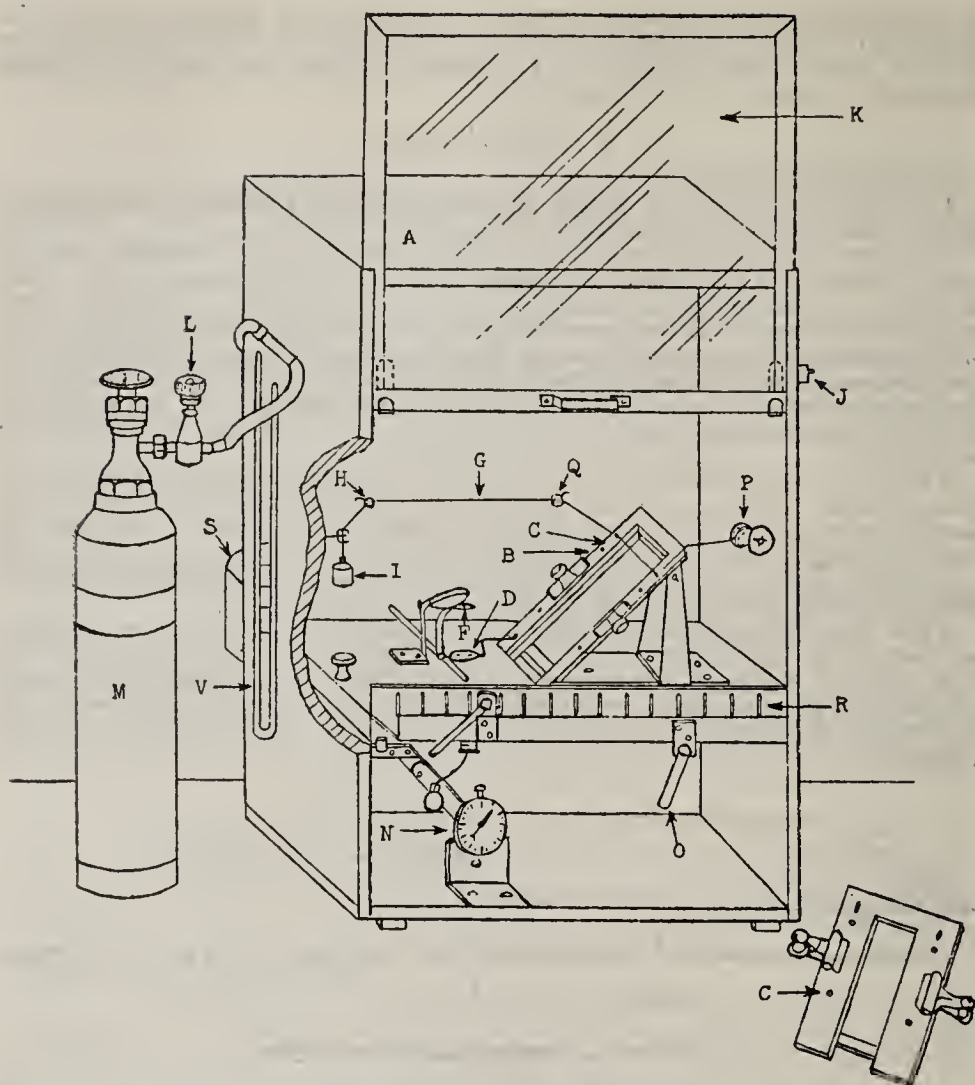


FIGURE 2. Flammability tester.

4.2.3 *Specimen holder (C, Fig. 2).*—The specimen holder consists of two $\frac{1}{16}$ -inch matched metal plates with clamps mounted along the sides, between which the specimen is fixed. The plates are slotted and loosely pinned for alignment. The two plates of the holder cover all but $1\frac{1}{2}$ inches of the width of the specimen for its full length. The specimen holder is supported in the draftproof chamber on the rack at an angle of 45 degrees. Five specimen holders are provided.

4.2.4 *Indicating finger (D, Fig. 2).*—The forepart of this finger touches the specimen when the rack is adjusted. By means of this finger the thickness of the specimen is compensated for in the throw of the gas nozzle.

4.2.5 *Control knobs (not shown).*—There are two of these knobs which hold the rack in test position. The knobs can be reached under the stage of the cabinet and permit forward and backward movements of the rack when loosened.

4.2.6 *Ignition medium (F, Fig. 2).*—The ignition medium consists of a spring-motor-driven gas jet formed around a 26-gauge hypodermic needle. A trigger located in the front of the apparatus serves to wind the spring motor when the machine is placed in operation. The gas jet is protected by a copper shield.

4.2.7 *Stop cord (G, Fig. 2).*—This cord, stretched from the spool (P, Fig. 2) through suitable thread guides provided on the specimen frame and chamber

walls, permits the lacing of the cord in the proper position exactly 5 inches from the point where the center of the ignition flame impinges on the test specimen. The stop cord consists of a No. 50 mercerized sewing thread and measures the rise and spread of the flame from the test specimen.

4.2.8 *Pulley or eye (H, Fig. 2).*—Support and guide for stop cord.

4.2.9 *Stop weight (I, Fig. 2).*—The weight, attached by means of a clip to the stop cord, in dropping actuates the stop motion.

4.2.10 *Slide door control (J, Fig. 2).*—This knob moves the catch mechanism used to hold the sliding door in an open position for insertion of test specimen racks.

4.2.11 *Slide door (K, Fig. 2).*—A glass door in its normal position slides in the grooves at the front of the cabinet.

4.2.12 *Fuel control valve (L, Fig. 2).*—Consists of a sensitive control device for regulating the fuel supply at the tank. The valve ends in a 1/2-inch male connection for attachment to the standard Butane tank of 2 pounds capacity.

4.2.13 *Flow meter (V, Fig. 2).*—A flowmeter is used to bring the fuel supply to test level by means of the control valve. The flowmeter consists of a U-shaped glass tube cut into the gas line in a manner to register the gas pressure delivered to the microburner. Attached to the case wall behind the flowmeter is a movable metal plate with two parallel horizontal lines properly spaced for the desired flame length. When the pressure is off the plate is so regulated that the liquid level in both sides of the U-shaped tube meets the lower line. When the test is made the pressure is so adjusted that the higher liquid level in the U-shaped tube meets the upper line.

4.2.14 *cp Butane container⁴ (M, Fig. 2).*—This fuel supply is a No. 4 cylinder of cp Butane.

4.2.15 *Stopwatch and timing mechanism (N, Fig. 2).*—This watch, by means of special attachments, is actuated to a start by connection with the gas jet (F, Fig. 2). A driving mechanism on rear of cabinet (S, Fig. 2) moves the gas jet to its most forward position and automatically starts the timing at the moment of flame impact. The falling weight (I, Fig. 2), when caused to move by severance of cord (C, Fig. 2), stops the watch. Timing is read directly.

4.2.16 *Starting lever (O, Fig. 2).*—This lever is operated from left to right in one stroke and is released to operate the gas jet.

4.2.17 *Cord supply (P, Fig. 2).*—This supply, consisting of a spool of No. 50 mercerized cotton sewing thread, is fastened to the side of the chamber and can be withdrawn by releasing the thumbscrew holding same in position.

4.2.18 *Cord loop (Q, Fig. 2).*—At a point behind the stop cord (G, Fig. 2) on the rear panel, there is installed another loop to draw the cord away from directly over the flame.

4.2.19 *Draft ventilator strip (R, Fig. 2).*—A draft ventilator strip is placed across the front opening, sealing the space between the sliding door when in lowered position and the base on which the grid rack is attached.

4.3 *Brushing device.*⁵—

4.3.1. This device consists of a baseboard over which a smaller carriage is drawn. This carriage runs on parallel tracks attached to the edges of the upper surface of the baseboard. The brush is hinged with pin hinges at the rear edge of the baseboard and rests on the carriage vertically with a pressure of 150 grams.

4.3.2. The brush consists of two rows of stiff nylon bristles mounted with the tufts in a staggered position. The bristles are 0.016 inch in diameter and 0.75 inch in length. There are 20 bristles per tuft and 4 tufts per inch. A clamp is attached to the forward edge of the movable carriage to permit holding the specimen on the carriage during the brushing operation.

⁴ Butane, C. P. No. 4 cylinders containing 2 pounds. Butane may be obtained from, among others, the Matheson Company, Inc., East Rutherford, N. J.

⁵ See footnote 3.

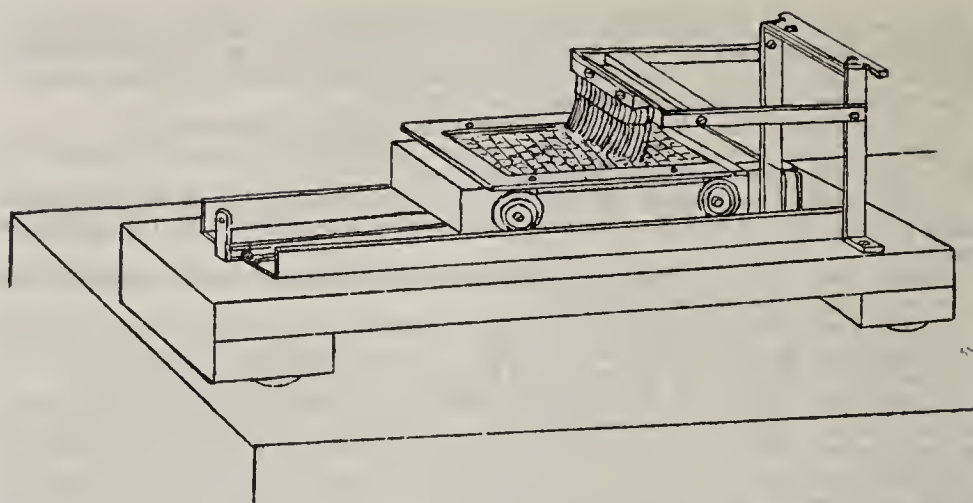


FIGURE 3. Brushing device.

4.3.3' After the specimen has been put in place on the carriage and fastened by means of the clamp, the brush is raised, the carriage pushed to the rear, and the brush lowered to the face of the specimen. The carriage is then drawn forward by hand at a uniform rate.

4.4 *Dry cleaning.*—A swatch from each sample as mentioned in paragraph 4.1.4 shall be subjected to the following dry-cleaning procedure.

4.4.1 *Apparatus.*—The apparatus is a cylinder, preferably metal, approximately 13 inches high and about $8\frac{3}{4}$ inches in diameter (capacity 3 gallons). The cylinder is mounted in a vertical position on an axis which is inclined 50° to the axis of the cylinder and is rotated about this axis at a speed of 45 to 50 revolutions per minute.

4.4.2 *Cleaning procedure.*—The apparatus is filled approximately one-third with perchlorethylene to which is added 270 ml. of dry-cleaning soap.⁶ The swatches and sufficient suitable worsted cloth⁷ in pieces approximately 12 x 12 inches to make a total dry load of 1 pound are placed in the apparatus. It is operated for 25 minutes. The solution is poured out, the apparatus refilled to approximately one-third with fresh perchlorethylene without soap, and the apparatus is operated for an additional 5 minutes. This last operation is repeated 3 times. The swatches are then removed and the excess solvent removed from the swatches by any convenient means, such as rolling them between two layers of turkish toweling or between two layers of absorbent paper. They are then permitted to dry at room temperature.

4.5 *Washing procedure.*—The swatches, after being subjected to the dry-cleaning procedure (paragraph 4.4) shall then be immersed and worked gently for 5 minutes in a bath of soft water in which 0.5 percent neutral chip soap has been dissolved. The volume of the bath shall be 30 times the weight of the swatches, and the temperature shall be between 95° and 100° F. The swatches shall then be rinsed twice in water at 80° F., extracted and dried. The individual specimens, each 2 x 6 inches, are then cut out as described in paragraph 4.1.5 and tested as described in paragraphs 4.6 and 4.7.

4.6 *Brushing and drying specimens.*—Each specimen having a raised fiber surface, in its original condition or after dry cleaning and washing, is placed on the brushing device carriage (paragraph 4.3) and drawn under the brush once against the lay of the raised fiber surface (see Fig. 4). Other specimens do not require brushing. All specimens are clamped individually in the specimen holders of the flammability tester (par. 4.2.2.) with the staple on top and the stapled end at the closed end of the holder. They are then dried in a horizontal

⁶ The soap shall be made by dissolving 56 g. of caustic potash (KOH) in 100 ml. of water. The potassium hydroxide solution shall be poured slowly with constant stirring into a mixture of 340 g. of oleic acid, 400 ml. of Stoddard Solvent (Commercial Standard CS3-40 grade), and 100 ml. of tertiary butyl alcohol or an equal quantity of butyl cellosolve.

⁷ A suitable worsted test fabric known as Moth Test Cloth may be obtained from Testfabrics, Inc., P. O. Box 567, Plainfield, N. J.

position in an oven for 30 minutes at 221° F. (105° C.), removed from the oven, and placed over anhydrous calcium chloride in a desiccator until cool, but for not less than 15 minutes.

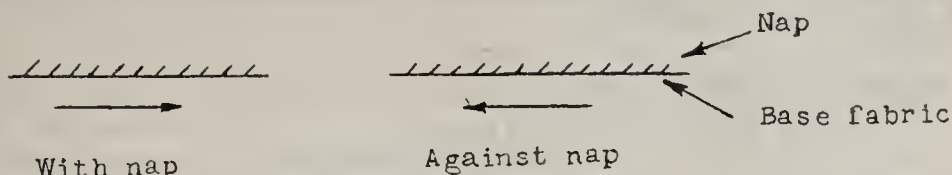


FIGURE 4. Lay of nap.

4.7 *Procedure for testing flammability.*—

4.7.1 Adjust the position of the rack of the flammability tester (paragraph 4.2) with a holder and trial specimen (not a prepared specimen) in position, so that the tip of the indicator finger touches the face of the specimen.

4.7.2 Open the control valve in the fuel supply. Allow approximately 5 minutes for the air to be drawn from the fuel line, ignite the gas, and adjust the flame to a length of $\frac{3}{8}$ inch measured from its tip to the opening in the gas nozzle.

4.7.3 Remove the mounted specimen from the desiccator and place it in position on the rack in the chamber of the apparatus.

4.7.4 See that the stop cord (No. 50 cotton sewing thread) is strung through the guides in the upper place of the specimen holder across the top of the specimen and through the guides at the rear of the chamber over the guide ring, and the weight is hooked in place close to and just below the guide ring. Set the stopwatch at zero. Close the door of the apparatus. Conduct the test in a draft-free room with the apparatus at room temperature.

4.7.5 Bring the starting lever over to the extreme right and release it. This starts the timing mechanism and applies the flame to the specimen for a period of 1 second. This should be done within 45 seconds of the time the specimen was removed from the desiccator. Timing is automatic, starting upon application of the flame and ending when the weight is released by the burning of the stop cord.

4.7.6 Record the time of flame spread (reading of stopwatch) of each specimen and note whether the base of each specimen having a raised fiber surface is ignited or fused to a point where the damage is apparent from the bottom of the specimen.

4.7.7 *Results.*—

4.7.7.1 *Time of flame spread.*—The time of flame spread of the textile is taken as an average time for 5 specimens. Results of tests of specimens before and after dry cleaning and washing shall be recorded and reported separately. If the time of flame spread is less than 4 seconds or if the specimens do not burn, test 5 additional specimens. The time of flame spread is then taken to be the average time for the 10 specimens or as many of them as burn.

4.7.7.2 *Base fabric ignition or fusing.*—Base fabric ignition or fusing of textiles having raised fiber surfaces shall be reported when the base fabric of more than 1 of the 5 (or 2 of the 10) specimens tested ignites or fuses.

4.7.8 *Reporting results.*—The reported results shall be the flammability before or after dry cleaning and washing, whichever is the lower, and, based on this result, the textile shall be placed in the proper classification as given in paragraph 3.

5. NOTES

5.1 The methods of test and classifications outlined herein agree with all essential requirements of the Standard Test Method for Flammability of Clothing Textiles of the American Association of Textile Chemists and Colorists.

ACCEPTANCE OF COMMERCIAL STANDARD

If acceptance has not previously been filed, this sheet properly filled in, signed, and returned will provide for the recording of your organization as an acceptor of this commercial standard.

Date -----

COMMODITY STANDARDS DIVISION,

Office of Industry and Commerce,

United States Department of Commerce,

Washington, D. C.

GENTLEMEN: We believe that Commercial Standard CS 191-53 constitutes a useful standard of practice and we individually plan to use it as far as practicable to insure the manufacture and sale of only those CLOTHING TEXTILES which are not dangerously flammable and with which we are directly concerned as a

Fabric manufacturer.¹

Clothing manufacturer.¹

Testing laboratory.¹

Distributor.¹

Purchaser.¹

We reserve the right to depart from it as we deem advisable.

We understand, of course, that only those articles which actually comply with the standard in all respects can be represented as conforming thereto.

Signature of authorized officer-----

(In ink)

(Kindly typewrite or print the following lines)

Name and title of above officer-----

Organization-----

(Fill in exactly as it should be listed)

Street address-----

City, zone, and State-----

TO THE ACCEPTOR

The following statements answer the usual questions arising in connection with the acceptance and its significance:

1. *Enforcement.*—Commercial standards are commodity specifications voluntarily established by mutual consent of those concerned. They present a common basis of understanding between the producer, distributor, and consumer and should not be confused with any plan of governmental regulation or control. The United States Department of Commerce has no regulatory power in the enforcement of their provisions; but, since they represent the will of the interested groups as a whole, their provisions through usage soon become established as trade customs and are made effective through incorporation into sales contracts by means of labels, invoices, and the like.

2. *The acceptor's responsibility.*—The purpose of commercial standards is to establish, for specific commodities, nationally recognized grades or consumer criteria, and the benefits therefrom will be measurable in direct proportion to their general recognition and actual use. Instances will occur when it may be necessary to deviate from the standard, and the signing of an acceptance does not preclude such departures; however, such signature indicates an intention to follow the commercial standard where practicable in the production, distribution, or consumption of the article in question.

3. *The Department's responsibility.*—The major function performed by the Department of Commerce in the voluntary establishment of commercial standards on a nationwide basis is fourfold: First, to act as an unbiased coordinator to bring all interested parties together for the mutually satisfactory adjustment of trade standards; second, to supply such assistance and advise as past experience with similar programs may suggest; third, to canvass and record the extent of acceptance and adherence to the standard on the part of pro-

¹ Underscore which one. Please see that separate acceptances are filed for all subsidiary companies and affiliates which should be listed separately as acceptors. In the case of related interests, trade associations, trade papers, etc., desiring to record their general support, the words "General Support" should be added after the signature.

ducers, distributors, and users; and fourth, after acceptance, to publish and promulgate the standard for the information and guidance of buyers and sellers of the commodity.

4. *Announcement and promulgation.*—When the standard has been endorsed by a satisfactory majority of production or consumption in the absence of active, valid opposition, the success of the project is announced. If, however, in the opinion of the standing committee or the Department of Commerce, the support of any standard is inadequate, the right is reserved to withhold promulgation and publication.

The CHAIRMAN. At this point in the record we will insert the statement of Henry C. Ball, executive vice president of the Tufted Textile Manufacturers Association of Dalton, Ga.

(The statement follows:)

STATEMENT OF HENRY C. BALL, EXECUTIVE VICE PRESIDENT, TUFTED TEXTILE MANUFACTURERS ASSOCIATION

Mr. Chairman and gentlemen of the Committee on Interstate and Foreign Commerce, my name is Henry C. Ball. I am the executive vice president of the Tufted Textile Manufacturers Association, Dalton, Ga.

I want to express at this time the appreciation of our organization and its manufacturers for the privilege of being heard by this committee.

The Tufted Textile Manufacturers Association is an organization of manufacturers who are finishers, and some of them are integrated, for the manufacturing of tufted robes, tufted carpets and rugs, and tufted bedspreads, draperies, vanity skirts, and other accessories. The Tufted Textile Manufacturers Association is divided into three segments and represents each branch of the tufted textile industry as described above. We are here today, however, to make a statement on tufted robes.

The majority of the production of tufted products is represented by the Tufted Textile Manufacturers Association. The association is composed of 119 members and represents approximately 35,000 people directly and indirectly in the industry, or 18,000 people directly. The control of the organization is vested in the delegate members who are made up of persons designated by its membership. The policies and programs of the organization are adopted only upon approval of the majority of the delegate members.

It is not necessary to dwell upon our desire to save lives or prevent injury to people. Naturally, all of us are interested in preventing needless death and suffering. This fact should be taken for granted. The Tufted Textile Manufacturers Association is not in favor of the manufacture or sale of articles of clothing which are inflammable to such a degree as to create abnormal danger to the wearer.

The manufacturers of wearing apparel in the tufted textile industry and the buyers and ultimate consumer of tufted textile robes have never felt that tufted robes or wearing apparel as made in the tufted industry were unduly inflammable or abnormally inflammable. Since their origin and introduction on the market in approximately 1938, from 1939 through 1952, with the exception of the war years, 1942, 1943, 1944, 1945, over 53,889,649 robes were manufactured in the tufted textile industry, or an average of 5,388,965 per year. This represents 398,740 bales of cotton at 476 pounds each, used in the production of tufted robes. During the years of 1942, 1943, 1944, and 1945 no figures on production are available. However, materials were allocated to the industry and some robes were manufactured.

Millions of these very fine robes are in use today by the housewives, the teenagers, and children of all ages. The consumer has found tufted robes the answer to her all-purpose demand for a garment for warmth, durability, washability, and above all, at a moderate price to meet her requirements as a utility robe. The tufted robe today is the most commonly used robe in the popular-priced field.

Since 1939 the industry has steadily improved the quality of the tufted robe and the method of production. In the past 3 or 4 years, the industry has spent millions of dollars and has revolutionized the tufted cotton robe entirely. Tufted robes in former years used 8/8-, 8/6-, and 6/8-, 6/6-ply yarns and the heavy tufts were sewn on the background in gages of $\frac{1}{2}$ inch and $\frac{3}{4}$ inch. Today the plied yarns used are 6/2, 8/3 and 8/4, or 8/2 and 8/3, and this yarn is sewn by large expensive yardage machines onto gray goods in rows of from $\frac{1}{8}$ -, $\frac{3}{8}$ -, $\frac{5}{32}$ -, to $\frac{3}{16}$ -inch gage with a very short nap. This fabric, after it is completed and finished

into tufted robes, is not dangerously inflammable. When the fabric is completed, it is very similar to those textiles known as corduroy and velvet.

The Tufted Textile Manufacturers Association and its membership and the robe segment of the industry, whose members produce approximately 90 percent of all tufted robes manufactured, wish to here go on record in favor of Mr. Canfield's revised bill, H. R. 3851, introduced in the 83d Congress, 1st session, and Mr. Johnson's bill, H. R. 4159, introduced in the 83d Congress, 1st session. We urge the passage of these bills by Congress at an early date.

The Tufted Textile Manufacturers Association's board of directors and the member manufacturer segment which produces tufted robes recommend and have approved the commercial standards promulgated by the Department of Commerce, United States Bureau of Standards, CS-191-53. We further recommend that if any change or modification of this standard is made, that it shall be developed under the same procedure and methods which were in affect and used in connection with the establishment of the Commercial Standard 191-53.

We further recommend that this proposed act, should it become a law, not become effective until 12 months after the date of its passage, whereby retail and wholesale merchants and manufacturers who are not as fortunate as the tufted textile manufacturers in the robe segment of the tufted textile industry producing wearing apparel that will pass the United States Bureau of Standards flammability test CS-191-53, may have an opportunity to revise their method of production.

We are pleased to include a statement from a prominent insurance company which possibly handles much or more fire insurance on tufted robe manufacturing plants than any other insurance company, and reads as follows:

PRUDEN INSURANCE AGENCY,
Dalton, Ga., April 10, 1953.

TUFTED TEXTILE MANUFACTURERS ASSOCIATION,
Dalton, Ga.

GENTLEMEN: In regard to your query of today, this is to inform you that fire insurance rates for tufted textile wearing apparel are no higher than for other risks of the textile manufacturing industry.

Yours very truly,

CARL BERRY.

Due to laws on flammability of wearing apparel which have already been passed by various States in the Union and proposed bills of flammable fabrics for wearing apparel before other State legislative bodies, the Tufted Textile Manufacturers believe it is better to have one Federal law and a uniform law, inasmuch as it would be almost impossible for any manufacturer to comply with different laws in different States on the same thing and would be more effective than any State laws.

Therefore, we heartily recommend that the bill introduced by Mr. Canfield, H. R. 3851, and the bill introduced by Mr. Johnson, H. R. 4159, be passed.

HENRY C. BALL,
*Executive Vice President,
Tufted Textile Manufacturers Association.*

The CHAIRMAN. I think it would be well to announce at this time that I have a number of statements before me of witnesses who have not appeared, and also matter which it has been requested be inserted in the record. I shall make an examination of this material and rule later on the documents for insertion in the record.

(The documents referred to follow:)

CITY OF DAYTON, OHIO,
DIVISION OF FIRE,
DEPARTMENT OF PUBLIC SAFETY,
February 17, 1953.

HON. PAUL F. SCHENCK,
*Representative to Congress, Third District of Ohio,
127 House Office Building, Washington, D. C.*

DEAR SIR: As chief of the Dayton, Ohio, Fire Department, it goes without saying that I am in accord with any legislation that will promote safety to our citizens and their property. I have studied H. R. 389 and conclude that it is sound

in principle, therefore, merits serious consideration by the Congress of the United States.

I do not have a copy of the Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131, dated April 3, 1952, as set forth in this bill, however, since this is only a temporary standard, it is of little concern.

We have had some experience, here in Dayton, with clothing which was highly combustible. Fortunately no one was injured. Several citizens brought sweaters, vests, etc., to the division of fire, requesting information on their combustibility. Whereupon, we conducted several tests in our own laboratory, plus having the professor at the University of Dayton check our work. We will be glad to supply you with a copy of these tests, if you feel they would be helpful.

May I go on record as being in favor of H. R. 389 and you may use my name in connection with this bill, if you so desire.

Yours truly,

FORREST B. LUCAS,
Chief, Division of Fire.

THE CITY OF MIDDLETOWN,
FIRE DEPARTMENT,
Middletown, Ohio, February 13, 1953.

HON. PAUL F. SCHENCK,
*Representative to Congress, Third District of Ohio,
127 House Office Building, Washington, D. C.*

DEAR SIR: Thank you very much for your letter of January 30.

There is no question in my mind, and I am sure you will find other fire chiefs of the same opinion, that legislation such as the bill known as H. R. 389 is the type of legislation needed in our efforts to reduce the loss of lives caused by fire in our country today.

I believe that the bill as introduced by Congressman Canfield covers the subject very well and I particularly would recommend that section 2 not be amended or changed in any way.

I certainly appreciate you granting me the privilege of reviewing this bill, and if I may, request your support of same.

Yours very truly,

WILLIAM FISHBAUGH,
Chief, Division of Fire.

RETAIL MERCHANTS' ASSOCIATION OF NEW JERSEY,
Montclair, N. J., April 16, 1953.

STATEMENT IN SUPPORT OF H. R. 3851 SUBMITTED TO THE HOUSE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE

My name is Philip W. Schindel. I am secretary-treasurer of the Retail Merchants' Association of New Jersey, which, in addition to having direct store members, is a federation of local and State retail groups, representing stores of all kind and size.

There are several reasons why the retailers of New Jersey urge the earliest possible passage of H. R. 3851.

(1) Like retailers in all parts of the country, we in New Jersey want to have dangerously flammable wearing apparel outlawed. We agree the public needs this protection. Because retailing is predominately a small-business field with 85 percent of all stores doing less than \$100,000 a year and only six-tenths of 1 percent doing over \$1 million, most merchants do not have the facilities for making their own flammability tests. Therefore, full protection is possible only through legislation prohibiting the manufacture, distribution, and sale of dangerously flammable fabrics and apparel.

(2) Generally we in New Jersey believe in home rule. We don't like to ask the Federal Government for help, but wearing apparel moves rapidly and extensively in interstate commerce, and several years of study has convinced us that only Federal control of dangerously flammable fabrics and apparel will solve the problem and give the public the protection it should have.

(3) A joint committee of the New Jersey Legislature, headed by Assemblywoman Florence P. Dwyer of Elizabeth, has done extensive research in this field. The first report of the committee stated, "The clear need for legislation to protect the public from the dangers of highly flammable textiles is apparent to this committee. That federal legislation is highly desirable because it is the only way to insure uniformity and to prevent a variety of State regulations is equally apparent. The committee is aware that legislation to prohibit the introduction or movement in interstate commerce of articles of a flammable character dangerous to individuals was introduced in the Congress in January of this year (1952). No action has been taken on these bills and no action was taken on similar bills in similar circumstances when they were introduced in Congress 5 years ago. Most certainly then the State of New Jersey cannot delay action and leave its citizens helpless in a situation which the record shows is sure to produce a yearly toll of human tragedy."

When this report was submitted, the New Jersey Legislature recognized that the only national standards of flammability were at that time proposed commercial standards. It further recognized the difficulty of developing State legislation which would stop the sale of dangerously flammable apparel in New Jersey without disrupting interstate commerce.

(4) The legislative committee was continued this year. After more research and full hearings a bill was drawn and introduced in the State legislature patterned after the Canfield bill (H. R. 3851) which is under discussion today. Now that commercial standards of flammability have been officially promulgated by the Secretary of Commerce, it is the opinion of the committee its bill represents a very satisfactory solution to the problem. However, it is also recognized, that, ideally, State legislation should supplement, not take the place of Federal law. A Federal bill should be enacted first so all State laws can be in exact conformity and so that, without surrendering States rights or constitutional responsibilities, separate State barriers to interstate commerce will not be erected. If the Congress does not act, the New Jersey bill will be pushed by the legislators who made up the study committee.

(5) The need for Federal legislation to protect the public from dangerously flammable wearing apparel and fabrics has been established the Canfield bill (H. R. 3851) is a workable and practical solution to the problem—the only adequate solution we have found. It is imperative to establish a national pattern for all State laws. Therefore, the Retail Merchants' Association of New Jersey is pleased to join other retail groups and virtually all segments of the textile industry in asking your committee to report H. R. 3851 favorably and in urging its early passage by the Congress.

Thank you for this opportunity to present our views.

Respectfully submitted.

PHILIP W. SCHINDEL

PEPPERELL MANUFACTURING CO., INC.,
New York City 13, April 8, 1953.

CHAIRMAN, HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE,
House Office Building, Washington 25, D. C.

DEAR SIR: With regard to pending legislation on flammability of textiles the Pepperell Manufacturing Co., Inc., would like to go on record as being in favor of the following proposed House bills as they now read:

H. R. 3851—Introduced by Representative Gordon Canfield of New Jersey.

H. R. 4159—Introduced by Representative Leroy Johnson of California.

At the same time we want to voice our opposition to H. R. 2768 as it now reads, introduced by Representative Charles A. Wolverton, of New Jersey.

Our objections to the Wolverton measure are aimed in particular at the guaranty provisions and the effective date of enactment which we deem to be unworkable. Since this company will not be represented at the hearings scheduled on the above-mentioned bills in Washington on Thursday, April 16, we respectfully submit this letter as a matter of record.

Very truly yours,

J. M. HOLLAND,
Research and Development Department.

NEW YORK BOARD OF TRADE,
New York 7, N. Y., April 20, 1953.

The honorable MEMBERS OF THE HOUSE OF REPRESENTATIVES,

Committee on Interstate and Foreign Commerce, Washington, D. C.

GENTLEMEN: My name is Cameron A. Baker. I am employed by the United States Testing Co., Inc., Hoboken, N. J., and serve as chairman of the technical committee of the textile section, New York Board of Trade, Inc. I have been a member of the committee for flammability of consumer textiles of the American Association of Textile Chemists and Colorists since its inception. I also represent the American Council of Commercial Laboratories on the standing committee of the commercial standard for flammability of clothing textiles CS-191-53.

This statement is being submitted for the textile section of the New York Board of Trade, Inc. We recognize the need for legislation designed to eliminate the manufacture and sale of highly flammable material intended for use in wearing apparel. We hold the opinion, however, that such legislation should be uniform from city to city and from State to State, and that in order to accomplish this purpose it should be solidly tied to a set of specific test methods and requirements. The prime need is for national legislation at this time which will serve as a guide to city and State officials in their deliberations on flammability legislation.

We feel that either of the bills designated in this statement will adequately serve to protect the consumer without working an undue hardship on industry which, in itself, we know is striving to accomplish the purpose of the legislation.

Respectfully,

CAMERON A. BAKER.

AMERICAN VISCOSE CORP.,
Marcus Hook, Pa., March 26, 1953.

Re: H. R. 3851, Flammable Fabrics Act.

Representative CHARLES A. WOLVERTON,

*Chairman, House Committee on Interstate and Foreign Commerce,
Washington, D. C.*

DEAR CONGRESSMAN: Several days ago I wrote Representative Gordon Canfield expressing approval of the above bill. In his reply he suggests that I also write to you who are chairman of the committee to conduct hearings on the bill.

In writing to you and the Honorable Gordon Canfield and expressing my hearty approval and support of your bill, H. R. 3851, I am representing the American Viscose Corp., the largest producer of rayon, and also the American Association of Textile Chemists and Colorists.

The American Viscose Corp. has been much interested in having Federal legislation to prevent the use of flammable fabrics in wearing apparel so as to minimize as far as possible the often pathetic disfigurement and sometimes fatal injuries which result from the accidental ignition of flammable wearing apparel. Details of a few of the hundreds of such injuries were cited in my statement at the hearings before the Committee on Interstate and Foreign Commerce, House of Representatives, 80th Congress, 1st session, March 4 and 5, 1947, page 81 of the printed record in connection with H. R. 505 (Canfield), H. R. 601 (Johnson), H. R. 1111 (Arnold).

The American Viscose Corp. quite sometime before the cowboy suits accidents in Washington, D. C., was interested in preventing the use of rayon in flammable fabrics for wearing apparel. Although it did not manufacture fabrics it did have a quality control plan, and copyright registered tags, which were never issued for brushed or similar flammable fabrics, even though made of its rayon, when it considered them dangerously flammable.

When burning accidents did occur, attention was usually directed to the synthetic fibers, although many of the accidents were due to fabrics made of the natural cellulosic fiber cotton. In fact, the original California bill was directed against synthetics for it made it "unlawful to manufacture, sell * * * any articles of wearing apparel * * * more highly flammable than cotton cloth in its natural state." This was subsequently amended to read "any article made from or containing natural or synthetic fibers determined by the fire marshal to be so highly flammable as to constitute a dangerous risk of fire and hazard of injury to persons" * * * after a public hearing in Sacramento attended by an American Viscose Corp. representative. Thus, briefly you will understand the

position which has been taken by the American Viscose Corp. in the public interest so as to include all dangerously flammable fabrics in any legislation and why it wishes me, as its representative to express to you its approval of H. R. 3851.

I have stated above that in supporting your bill, I am also representing AATCC on whose committee for devising a suitable test method for determining the ease of ignition, the intensity and rate of burning of textile fabrics, I have functioned as vice chairman since its formation in 1945. Prior to that time there was no satisfactory, certainly no accepted method for determining the flammability of fabrics. Developing any new test method is not a simple matter, for it takes time with much thought and patience given to many small details and to the making of many, many check tests.

This test method has now received the approval not only of the AATCC research committee but of the American Society for Testing Materials, the American Standards Association and is being considered by the International Standards Organization as an international standard. Also, the Commodity Standards Division of the United States Department of Commerce, after soliciting comments from manufacturers, distributors, and users, decided that a satisfactory majority of the trade had agreed to this test method, so it has announced a commercial standard known as Flammability of Clothing Textiles CS 191-53, effective January 30, 1953. It is this commercial standard test method which would make H. R. 3851 effective if and when enacted into law.

As the representative of the American Viscose Corp. and of AATCC, may I again express not only approval of H. R. 3851 but the sincere hope that it will soon be enacted into law by the present Congress.

Sincerely,

F. BONNET,

Adviser to the President, American Viscose Corp.

ISELIN-JEFFERSON CO., INC.,
New York 13, N. Y., April 8, 1953.

CHAIRMAN, HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE.
House Office Building, Washington 25, D. C.

DEAR SIR: This organization being sales representatives, distributing nationally the product of many cotton and synthetic fiber manufacturing plants located throughout the United States, wish to state that we have been following with great interest the bills presented covering textile flammability.

After due consideration we wish to go on record as favoring the enactment of the so-called Canfield or Johnson bills, H. R. 3851 and H. R. 4159, which two bills seem to be identical as far as all of the major facts are concerned. These have to do with the possibility of excluding dangerously flammable goods from commerce within the United States.

We are definitely opposed to bill known as H. R. 2768, which differs materially in major respects from the two previously mentioned measures.

We are very much in favor of the principle of eliminating dangerously flammable materials from commerce, particularly such as those which produced the brushed rayon sweater episode several years ago, and therefore we think that the Canfield or Johnson bills, as drawn, represent the best approach to this problem to date, both as far as public protection and practical needs of the industry are concerned.

We would also like to strongly emphasize that these two measures be effective 1 year from their enactment, thus allowing the industry to make necessary adjustments in order to comply.

These two bills seem to contain a practical guaranty clause which seems to protect all concerned, whereas the guaranty clause, as contained in bill H. R. 2768, is entirely unworkable in the manufacture and mass production of textiles.

Yours very truly,

LESTER E. SCHULTZ.

PHILADELPHIA TEXTILE MANUFACTURERS ASSOCIATION,
Philadelphia 6, Pa., April 9, 1953.

HON. CHARLES A. WOLVERTON,
Chairman, Interstate Commerce Committee
House Office Building, Washington, D. C.

DEAR CONGRESSMAN WOLVERTON: The Philadelphia Textile Manufacturers Association endorses the objectives of H. R. 3851, titled "Flammability Fabrics Act." We urge prompt and favorable report of the Interstate Commerce Committee to speed passage of the bill. In our opinion this is necessary to forestall the enactment of numerous State laws which would unduly burden fabric manufacturers.

Our support of this bill assumes that sufficient time and notice would be given in case of modification or supplement to the test methods and standards of CS-191-53, as set forth in section 4 (b) to permit interested parties to be heard in connection with proposed modifications or supplements, and further provide for sufficient time to comply with any new requirements.

It is noted also that the effective date of the proposed bill is 1 year after passage. We suggest to the committee that the time factor for disposal of yarns, fabrics, or apparel on hand might be different at the manufacturing, distributing, and retail levels.

We respectfully request that this letter be made a part of the record in considering flammability legislation.

Very truly yours,

C. CARROLL BAXTER,
Chairman, Legislative Committee.

RIEDEL TEXTILE CORP.,
New York 16, N. Y., April 9, 1953.

Re H. R. 3851, Flammable Fabrics Act.

CHAIRMAN, HOUSE OF INTERSTATE AND FOREIGN COMMERCE COMMITTEE,
House Office Building, Washington 25, D. C.

DEAR SIR: This letter is to voice our support of H. R. 3851 in its present form as proposed by Representative Canfield and of the identical H. R. 4159 by Representative Johnson.

These gentlemen, and many others in Government and industry, have studied the question of flammability of textiles for many years, and we believe that this bill represents the best that can be worked out now from the efforts of these people.

This is the type of legislation which the Federal Government should handle; and manufacturers, distributors, and consumers will benefit by the Federal Government passing this measure promptly because there are numerous State legislatures which see the need for control but which are proposing bills which are not uniform. This is a time when Federal legislation is needed promptly to avoid confusing and conflicting State laws.

We feel that the above two bills are preferable to H. R. 2768 by Representative Wolverton in that the guaranty required by the Wolverton bill is not practical and the effective date is quicker than manufacturers and distributors can comply with.

Yours very truly,

THEODORE RIEDEL.

The CHAIRMAN. That concludes the hearing, gentlemen.
 (Whereupon, at 5:10 p. m., the hearing was concluded.)

×

83D CONGRESS
1ST SESSION

H. R. 5069

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1953

Mr. WOLVERTON introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

SECTION 1. This Act may be cited as the “Flammable
Fabrics Act”.

6 DEFINITIONS

7 SEC. 2. As used in this Act—

8 (a) The term “person” means an individual, partner-
9 ship, corporation, association, or any other form of business
10 enterprise.

1 (b) The term “commerce” means commerce among the
2 several States or with foreign nations, or in any Territory of
3 the United States or in the District of Columbia, or between
4 any such Territory and another, or between any such Terri-
5 tory and any State or foreign nation, or between the District
6 of Columbia and any State or Territory or foreign nation.

7 (c) The term “Territory” includes the insular posses-
8 sions of the United States and also any Territory of the
9 United States.

10 (d) The term “article of wearing apparel” means any
11 costume or article of clothing worn or intended to be worn
12 by individuals except hats, gloves, and footwear: *Provided*,
13 *however*, That such hats do not constitute or form part
14 of a covering for the neck, face, or shoulders when worn
15 by individuals: *Provided further*, That such gloves are not
16 more than fourteen inches in length and are not affixed to or
17 do not form an integral part of another garment: *And pro-*
18 *vided further*, That such footwear does not consist of hosiery
19 in whole or in part and is not affixed to or does not form
20 an integral part of another garment.

21 (e) The term “fabric” means any material (other than
22 fiber, filament, or yarn) woven, knitted, felted, or other-
23 wise produced from or in combination with any natural
24 or synthetic fiber, film, or substitute therefor which is in-
25 tended or sold for use in wearing apparel except that in-

1 terlining fabrics when intended or sold for use in wear-
2 ing apparel shall not be subject to this Act.

3 (f) The term "interlining" means any fabric which is
4 intended for incorporation into an article of wearing apparel
5 as a layer between an outer shell and an inner lining.

6 (g) The term "Commission" means the Federal Trade
7 Commission.

8 (h) The term "Federal Trade Commission Act" means
9 the Act of Congress entitled "An Act to create a Federal
10 Trade Commission, to define its powers and duties, and
11 for other purposes", approved September 26, 1914, as
12 amended.

13 PROHIBITED TRANSACTIONS

14 SEC. 3. (a) The manufacture for sale, the sale,
15 or the offering for sale, in commerce, or the importa-
16 tion into the United States, or the introduction, deliv-
17 ery for introduction, transportation or causing to be
18 transported in commerce or for the purpose of sale or de-
19 livery after sale in commerce, of any article of wearing
20 apparel which under the provisions of section 4 of this Act
21 is so highly flammable as to be dangerous when worn by
22 individuals, shall be unlawful and shall be an unfair method
23 of competition and an unfair and deceptive act or practice
24 in commerce under the Federal Trade Commission Act.

25 (b) The sale or the offering for sale, in commerce, or the

1 importation into the United States, or the introduction, de-
2 livery for introduction, transportation or causing to be trans-
3 ported in commerce or for the purpose of sale or delivery
4 after sale in commerce, of any fabric which under the pro-
5 visions of section 4 of this Act is so highly flammable as to
6 be dangerous when worn by individuals, shall be unlawful
7 and shall be an unfair method of competition and an unfair
8 and deceptive act or practice in commerce under the Federal
9 Trade Commission Act.

10 (c) The manufacture for sale, the sale, or the offering
11 for sale, of any article of wearing apparel made of
12 fabric which under section 4 is so highly flammable
13 as to be dangerous when worn by individuals and which has
14 been shipped or received in commerce shall be unlawful
15 and shall be an unfair method of competition and an unfair
16 and deceptive act or practice in commerce under the Federal
17 Trade Commission Act.

18 STANDARD OF FLAMMABILITY

19 SEC. 4. (a) Any fabric or article of wearing apparel
20 shall be deemed so highly flammable within the meaning
21 of section 3 of this Act as to be dangerous when worn by
22 individuals if such fabric or any uncovered or exposed part
23 of such article of wearing apparel exhibits rapid and intense
24 burning when tested under the conditions and in the manner
25 prescribed in the Commercial Standard promulgated by the

1 Secretary of Commerce effective January 30, 1953, and
2 identified as "Flammability of Clothing Textiles, Commercial
3 Standard 191-53", or in the Commercial Standard pro-
4 mulgated by the Secretary of Commerce effective May 22,
5 1953, and identified as "General Purpose Vinyl Plastic
6 Film, Commercial Standard 192-53". For the purposes of
7 this Act, such Commercial Standard 191-53 shall apply
8 with respect to the hats, gloves, and footwear covered by
9 section 2 (d) of this Act, notwithstanding any exception
10 contained in such Commercial Standard with respect to hats,
11 gloves, and footwear.

12 (b) If at any time the Secretary of Commerce finds that
13 the Commercial Standards referred to in subsection (a) of
14 this section are inadequate for the protection of the public
15 interest, he shall submit to the Congress a report setting forth
16 his findings together with such proposals for legislation as he
17 deems appropriate.

18 ADMINISTRATION AND ENFORCEMENT

19 SEC. 5. (a) Except as otherwise specifically provided
20 herein, sections 3, 5, 6, and 8 (b) of this Act shall be en-
21 forced by the Commission under rules, regulations and pro-
22 cedures provided for in the Federal Trade Commission Act.

23 (b) The Commission is authorized and directed to pre-
24 vent any person from violating the provisions of section 3
25 of this Act in the same manner, by the same means and with

1 the same jurisdiction, powers and duties as though all appli-
2 cable terms and provisions of the Federal Trade Commission
3 Act were incorporated into and made a part of this Act;
4 and any such person violating any provision of section 3 of
5 this Act shall be subject to the penalties and entitled to the
6 privileges and immunities provided in said Federal Trade
7 Commission Act as though the applicable terms and provi-
8 sions of the said Federal Trade Commission Act were incor-
9 porated into and made a part of this Act.

10 (c) The Commission is authorized and directed to pre-
11 scribe such rules and regulations as may be necessary and
12 proper for purposes of administration and enforcement of
13 this Act.

14 (d) The Commission is authorized to—

15 (1) cause inspections, analyses, tests, and exami-
16 nations to be made of any article of wearing apparel
17 or fabric which it has reason to believe falls within the
18 prohibitions of this Act; and

19 (2) cooperate on matters related to the purposes
20 of this Act with any department or agency of the Gov-
21 ernment; with any State, Territory, or possession or
22 with the District of Columbia; or with any department,
23 agency, or political subdivision thereof; or with any
24 person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of

1 this section shall conform as nearly as may be to proceedings
2 in rem in admiralty, except that on demand of either party
3 and in the discretion of the court, any issue of fact shall be
4 tried by jury. Whenever such proceedings involving identi-
5 cal articles of wearing apparel or fabrics are pending in two or
6 more jurisdictions, they may be consolidated for trial by order
7 of any such court upon application seasonably made by any
8 party in interest upon notice to all other parties in interest.
9 Any court granting an order of consolidation shall cause
10 prompt notification thereof to be given to other courts hav-
11 ing jurisdiction in the cases covered thereby and the clerks
12 of such other courts shall transmit all pertinent records and
13 papers to the court designated for the trial of such consoli-
14 dated proceedings.

15 (c) In any such action the court upon application
16 seasonably made before trial shall by order allow any party
17 in interest, his attorney or agent, to obtain a representative
18 sample of the article of wearing apparel or fabric seized.

19 (d) If such articles of wearing apparel or fabrics are
20 condemned by the court they shall be disposed of by destruc-
21 tion, by delivery to the owner or claimant thereof upon pay-
22 ment of court costs and fees and storage and other proper
23 expenses and upon execution of good and sufficient bond to
24 the effect that such articles of wearing apparel or fabrics will
25 not be disposed of for wearing apparel purposes until prop-

1 erly and adequately treated or processed so as to render them
2 lawful for introduction into commerce, or by sale upon execu-
3 tion of good and sufficient bond to the effect that such articles
4 of wearing apparel or fabrics will not be disposed of for
5 wearing apparel purposes until properly and adequately
6 treated or processed so as to render them lawful for intro-
7 duction into commerce. If such products are disposed of by
8 sale the proceeds, less costs and charges, shall be paid into
9 the Treasury of the United States.

10 PENALTIES

11 SEC. 7. Any person who willfully violates section 3 or 8
12 (b) of this Act shall be guilty of a misdemeanor, and upon
13 conviction thereof shall be fined not more than \$5,000 or be
14 imprisoned not more than one year or both in the discretion
15 of the court: *Provided*, That nothing herein shall limit other
16 provisions of this Act.

17 GUARANTY

18 SEC. 8. (a) No person shall be subject to prosecution
19 under section 7 of this Act for a violation of section 3 of this
20 Act if such person (1) establishes a guaranty received in
21 good faith signed by and containing the name and address
22 of the person by whom the wearing apparel or fabric guar-
23 anteed was manufactured or from whom it was received,
24 to the effect that reasonable and representative tests made
25 under the procedures provided in section 4 of this Act show

1 that the fabric covered by the guaranty, or used in the wearing
2 apparel covered by the guaranty, is not, under the provisions
3 of section 4 of this Act, so highly flammable as to be danger-
4 ous when worn by individuals, and (2) has not, by further
5 processing, affected the flammability of the fabric or wearing
6 apparel covered by the guaranty which he received. Such
7 guaranty shall be either (1) a separate guaranty specifically
8 designating the wearing apparel or fabric guaranteed, in
9 which case it may be on the invoice or other paper relating
10 to such wearing apparel or fabric; or (2) a continuing
11 guaranty filed with the Commission applicable to any wear-
12 ing apparel or fabric handled by a guarantor, in such form
13 as the Commission by rules or regulations may prescribe.

14 (b) It shall be unlawful for any person to furnish, with
15 respect to any wearing apparel or fabric, a false guaranty
16 (except a person relying upon a guaranty to the same effect
17 received in good faith signed by and containing the name and
18 address of the person by whom the wearing apparel or fabric
19 guaranteed was manufactured or from whom it was received)
20 with reason to believe the wearing apparel or fabric falsely
21 guaranteed may be introduced, sold, or transported in com-
22 merce, and any person who violates the provisions of this
23 subsection is guilty of an unfair method of competition, and
24 an unfair or deceptive act or practice, in commerce within
25 the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the

1 ordinary course of its business; or (b) to any converter, proc-
2 essor, or finisher in performing a contract or commission serv-
3 ice for the account of a person subject to the provisions
4 of this Act: *Provided*, That said converter, processor, or
5 finisher does not cause any article of wearing apparel or
6 fabric to become subject to this Act contrary to the terms
7 of the contract or commission service; or (c) to any article
8 of wearing apparel or fabric shipped or delivered for ship-
9 ment into commerce for the purpose of finishing or proc-
10 essing to render such article or fabric not so highly flam-
11 mable, under the provisions of section 4 of this Act, as to be
12 dangerous when worn by individuals.

13 EFFECTIVE DATE

14 SEC. 12. This Act shall take effect one year after the
15 date of its passage.

16 AUTHORIZATION OF NECESSARY APPROPRIATIONS

17 SEC. 13. There is hereby authorized to be appropriated
18 such sums as may be necessary to carry out the provisions
19 of this Act.

A BILL

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

By Mr. WOLVERTON

MAY 7, 1953

Referred to the Committee on Interstate and Foreign
Commerce

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued May 11, 1953

For actions of May 8, 1953

83rd-1st, No. 84

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

CONTENTS

Adjournment.....7	Forestry.....1	Prices, farm.....6
Appropriations.....13	Land acquisition.....12	Transportation.....2
Economic controls.....3	Land transfer.....1	Treaties.....10
Fabrics, flammable.....8	Loans, farm.....4	Virgin Islands.....6
Flood control.....11	Personnel.....9	

SENATE

1. LAND TRANSFER. The Agriculture and Forestry Committee reported without amendment S. 731, authorizing transfer of a tract of national forest land located at Cherry Point, N. C., to the Navy (S. Rept. 230) (p. 4881).
2. TRANSPORTATION. Passed as reported S. 922, to establish a Washington Metropolitan Area Transit Commission (pp. 4888-94).
3. ECONOMIC CONTROLS. Sen. Bennett spoke against provisions in S. 1081 for temporary emergency price, wage, and rent ceilings (pp. 4895-7).
4. FARM LOANS. Sen. Langer inserted a letter from the N. Dak. Farmers Union defending the Farmers' Home Administration and discussing its operations (pp. 4881-2).
5. FARM PRICES. Sen. Langer inserted a Farmers Union local resolution favoring "all the different branches pertaining to the agricultural setup" and permanent price supports at not less than 90% of parity (p. 4880).
6. VIRGIN ISLANDS. Received from the Interior Department a proposed bill to revise the Organic Act of the Virgin Islands; to Interior and Insular Affairs Committee (p. 4880).
7. ADJOURNED until Tues., May 12 (p. 4904).

HOUSE

8. FLAMMABLE FABRICS. The Interstate and Foreign Commerce Committee ordered reported (but did not actually report) H. R. 5069, to prohibit interstate commerce in highly flammable fabrics (p. D390).
9. PERSONNEL. The "Daily Digest" states: "The Subcommittee on the Federal Civil Service announced today that it will make a study and analysis of the function of the Civil Service Commission and the manner in which it carries out certain procedures. Special attention will be given to examining, recruiting, certifying, and blanketing-in classifications, and welfare services (p. D390).

ITEMS IN APPENDIX

10. TREATIES. Sen. Bricker inserted two Wall Street Journal articles favoring his

proposed constitutional amendment to limit the treaty-making power (pp. A2610-11, 2612-13).

11. FLOOD CONTROL. Rep. Price inserted a letter from James Smith (Mississippi Valley Association) criticizing the elimination of Tuttle Creek Dam from the 1954 Budget (pp. A2619-20).

BILL INTRODUCED

12. LAND ACQUISITION. S. 1857, by Sen. Langer, to amend certain statutes providing for expeditious judicial proceedings for the condemnation of lands for public purposes; to Judiciary Committee (p. 4881).

COMMITTEE HEARINGS RELEASED BY G. P. O.

13. THIRD SUPPLEMENTAL APPROPRIATION BILL, 1953, H. R. 4664. S. Appropriations.

COMMITTEE HEARING ANNOUNCEMENTS FOR MAY 11: FCA reorganization, S. Agriculture (Farrington, Loos, Duggan to testify). Soil-conservation and watershed programs, H. Agriculture.

--O--

For supplemental information and copies of legislative material referred to, call Ext. 4654 or send to Room 105A.

--O--

House of Representatives

Chamber Action

The House was not in session today. Its next meeting will be held on Monday, May 11, at 12 o'clock noon. For program see Congressional Program Ahead in this DIGEST.

Committee Meetings

AGRICULTURAL CONSERVATION

Committee on Agriculture: Continued on subject of agricultural conservation in general, and heard the following witnesses who approved flood-control and flood-prevention measures, and urged coordination in connection with the various programs—Representatives Talle, of Iowa, Miller and Scrivener of Kansas, and Deane, of North Carolina; and C. M. Granger, of the American Forestry Association. Will continue on the same subject Monday when representatives of watershed associations will be heard.

MILITARY REAL ESTATE

Committee on Armed Services: The Cunningham Subcommittee on Acquisitions and Disposals considered, but took no final action on, two real-estate projects—Carswell Air Force Base, Tex.; and Luke Air Force Base, Ariz. Testifying on these projects were Maj. Gen. Lee Washbourne, Director of Installations, Air Force; and Col. Joseph Friedlander, Deputy Chief, Real Estate Division, and Col. C. J. Kjeldseth. In an executive hearing on classified construction the subcommittee heard testimony from Brig. Gen. Stanley T. Wray, Deputy Director of Installations, Air Force; and Col. E. J. Fletcher, Chief of the Overseas Construction Branch, Air Force. Recessed until Monday morning.

TAFT-HARTLEY LAW

Committee on Education and Labor: Concluded public hearings on proposed amendments and revisions to the Labor-Management Relations Act of 1947. These hearings, which began on February 10, have received the views and testimony of 144 witnesses. While the committee intends to start the executive marking up of the final draft of a bill to be reported, Chairman McConnell stated that a deadline of May 15 has been set for interested parties to submit statements for incorporation in the printed record of the hearings. At the final open session today, George J. Bott, General Counsel of the National Labor Relations Board, discussed the varied problems facing the Board, and stated that much of the criticism which has been directed toward the Board by recent witnesses is not surprising—"that an agency charged by Congress with the responsibility for issuing and prosecuting complaints against unions and em-

ployers, when their conduct exceeds legislative limitations, should be the target of criticism by parties against whom decisions are eventually rendered." He also stated that in cases of criticisms of personal conduct of NLRB employees, appropriate steps were taken to deal with them, and that in the 5½ years under the present law approximately 20 regional field office employees have left the agency as a result of this processing. He also presented an outline and analysis of several cases that have been singled out for complaint, and presented the Board's proceedings used toward their evaluation. He added that of the approximately 130,000 cases filed in regional offices since the inception of the act, that about 30,000 were charges of unfair labor practices, and the remainder were election cases. Paul Styles, Acting Chairman of the Board, and other NLRB officials were in attendance as the committee continued its questioning of Board activities and functions in a night session. The date for executive marking up of the bill to be reported will be announced later.

MUTUAL SECURITY

Committee on Foreign Affairs: Met in executive session this morning with Secretary of Defense Charles E. Wilson. The Secretary discussed the military portions of the mutual security bill now before the committee. He was questioned on the fiscal status of the funds previously voted for the program and inquired into the proposals contained in the next year's program. The Secretary stressed the fact that he and his assistants were scrutinizing all parts of the program for which money has been appropriated but not yet obligated. In doing this, Secretary Wilson pointed out he was in no way criticizing the previous administration but only giving it the "fresh look" to which the new administration is committed.

Recessed until Monday morning for further consideration of the mutual security program.

PUBLIC LANDS

Committee on Interior and Insular Affairs: The Subcommittee on Public Lands considered and approved for reporting to the full committee the following—

H. R. 2779, a private bill, which was explained by its author, Representative Engle, and Herman Lieberman, legislative attorney, Bureau of Land Management;

H. R. 3581, to facilitate public participation of sites, buildings, and objects of national significance and interest; with supporting testimony being furnished by Dr. David Finley, Chairman, Commission of Fine Arts, and the Director of the National Gallery of Art; and Ronald Lee, Assistant Director of the Park Service;

H. R. 3956, a private bill, which was supported by Frederick W. Grover, Chief of Division of Land

Acquisition (Forest Service), while Representative Dempsey's explanation of his measure was read by Harry E. Stuart, legislative assistant;

H. R. 3986 (amended), to authorize appropriation of additional funds to complete the International Peace Garden, N. Dak., with S. Hugh Farrington, administrative assistant to Representative Krueger, author of the bill, reading a statement of explanation; and

S. 1545, authorizing conveyance and exchange of burial lots in Washington Parish Burial Grounds (D. C.), with House bill, H. R. 4519, being tabled. This bill was supported by Chauncey B. Schmeltzer, Office of Assistant Chief of Engineers for Real Estate (Army).

The subcommittee also received testimony, but took no final action on H. R. 998, Federal patent to State of Idaho for certain land; H. R. 1705, a private bill; and H. R. 4816, a private bill. W. L. Mills, secretary to Representative Budge, spoke in support of H. R. 998, and Mr. Lieberman, of the Land Management Bureau, explained H. R. 998 and 1705.

The subcommittee also tabled H. R. 3913, a comparable bill to H. R. 3986. This bill was explained by its author, Representative Burdick.

FEDERAL COMMUNICATIONS

Committee on Interstate and Foreign Commerce: Ordered the following bills reported to the House without amendment—

H. R. 4557, to permit construction of radio stations, and granting authority to the FCC to waive the requirement of a construction permit;

H. R. 4558, relating to the time within which the FCC must act on protests filed thereunder; and

H. R. 4559, relating to offenses or penalties under the Federal Communications Act.

Prior to the above action, which was taken in executive session, Rosel H. Hyde, Chairman of the Federal Communications Commission, testified on the three bills.

FLAMMABLE FABRICS

Committee on Interstate and Foreign Commerce: Ordered reported to the House H. R. 5069 (a new bill introduced by Chairman Wolverton), to prohibit the introduction or movement in interstate commerce of arti-

cles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals.

JUSTICE DEPARTMENT

Committee on the Judiciary: The Keating subcommittee which has been investigating the administration of the Department of Justice resumed hearings regarding charges of interference by the Departments of Justice and State with a report from a Federal grand jury in New York. This grand jury was discharged in December of last year after handing up a presentment concerning Communist infiltration in the United Nations. Testimony was received from William L. Franklin, Special Assistant to the Director, Office of Security, State Department; and John W. Ford, Director of Security. These witnesses testified on March 23 and 26, respectively, when the hearings first started. Others called at today's session were Henry Cabot Lodge, U. S. representative to the United Nations; George M. Ingram, Director of Office of International Administration and Conferences, State Department; and James W. Amshey, former Chief, Evaluation Bureau, in the Division of Security. Subcommittee recessed until Tuesday afternoon.

CIVIL SERVICE

Committee on Post Office and Civil Service: The Subcommittee on the Federal Civil Service announced today that it will make a study and analysis of the function of the Civil Service Commission and the manner in which it carries out certain procedures. Special attention is to be given to examining, recruiting, certifying, and blanketing-in procedures. Other subjects suggested for consideration are promotion systems, job classifications, and welfare services. In a statement regarding the proposed study, Subcommittee Chairman Hagen said: "I should like to emphasize that it is not the intention of the subcommittee, in conducting its study of the Federal civil service, to reflect adversely on the present Civil Service Commission. I feel that the present Chairman and associate members of the Commission have brought with them a most forthright and vigorous approach to the complex problem of Federal Civil Service administration, and have demonstrated a wide knowledge as well as varied experience in both public and private personnel management."

CONGRESSIONAL PROGRAM AHEAD

Senate Chamber

(Week of May 11-16)

Senate will not be in session on Monday; on Tuesday, Senate will continue on S. 16, immunity of witnesses, to be followed during week by S. 1081, temporary economic controls, ratification of 3 NATO treaties and

confirmation of 10 reported Army nominations in rank of major general, S. Res. 106, increasing limit of Rules Committee expenditures, and possibly S. Res. 97, to discharge Committee on Rules from further consideration of S. Res. 32, temporarily increasing membership of Committees on Armed Services and Labor and Public Welfare.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 15, 1953
For actions of May 14, 1953
83rd-1st, No. 88

CONTENTS

Accounting.....10	Flammable fabrics.....3	Reclamation.....18
Adjournment.....6	Flood control.....19	Reorganization.....8,14
Appropriations.....1,2,15	Interest rates.....16	Retirement.....5
Budgeting.....10	Item veto.....2	St. Lawrence seaway.....12
Dairy industry.....4	Legislative program.....6	Soil conservation.....19
Economic controls.....7	Personnel.....5,9	Taxation.....20
Electrification.....17	Prices, farm.....2	Treaties.....13
Expenditures.....20	support.....11	

HIGHLIGHTS: House committees reported agricultural appropriation and flammable-fabrics bills. House passed Treasury-Post Office appropriation bill. Rep. Fountain submitted resolution to disapprove USDA reorganization plan.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL, 1954. The Appropriations Committee reported this bill, H. R. 5227 (H. Rept. 422)(p. 5111). Debate on the bill is to begin Mon. (p. 5112). Rep. Whitten reserved all points of order on the bill (p.5111).
Representatives of the Department agencies and bureaus have been advised in detail of the Committee's actions on the estimates for the Department. Copies of the bill, committee report, and hearings will be distributed directly to the agency budget offices, as soon as received, pursuant to a distribution list that has been worked out with the Department agencies. The agencies will receive the material at the same time this office will receive it. The material will not be distributed from this office. In general, copies should be obtained through the agency and bureau budget offices rather than from this office.
At the end of this Digest is a summary comparison of the Committee actions with the 1954 estimates and with total anticipated funds available in 1953, and excerpts from the committee report.
2. TREASURY-POST OFFICE APPROPRIATION BILL, 1954. Passed without amendment this bill, H. R. 5174 (pp. 5086-111). Two amendments by Rep. Roosevelt, to provide for item vetoes on this bill, were stricken on points of order after discussion (pp. 5096-7, 5108-9, 5111). Rep. Eberharter claimed the Secretary is trying to decrease farm prices (pp. 5086-7).
3. FLAMMABLE FABRICS. The Interstate and Foreign Commerce Committee reported without amendment H. R. 5069, to prohibit interstate commerce in dangerously flammable fabrics and apparel (H. Rept. 425)(p. 5122).
4. DAIRY INDUSTRY. Rep. Marshall spoke on the importance of the dairy industry (pp. 5119-21).
5. PERSONNEL. Rep. Bailey claimed the administration is weakening the civil-service

system (pp. 5121-2).

Received from the Committee on Retirement Policy for Federal Personnel a proposed bill to amend the Civil Service Retirement Act; to Post Office and Civil Service Committee (p. 5122).

6. ADJOURNED until Mon., May 18 (p. 5122). Legislative program for next week, as announced by Majority Leader Halleck: Mon., consent calendar and agricultural appropriation bill; ~~private~~ calendar and agricultural appropriation bill, with no votes on major controversial amendments; Wed., completion of debate and vote on agricultural appropriation bill, debate on Labor-HEW bill; Thurs. and Fri., Labor-HEW appropriation bill (pp. 5111-2). The Labor-HEW bill is expected to be reported during House recess today (p. 5111).

SENATE

7. ECONOMIC CONTROLS. Agreed to begin voting, on Tues., May 19, on amendments to S. 1081, authorizing temporary economic controls, with a limitation on debate (p. 5083).

BILLS INTRODUCED

8. REORGANIZATION. H. Res. 236, by Rep. Fountain, disapproving the reorganization plan for this Department; to Government Operations Committee (p. 5123).
9. PERSONNEL. H. R. 5224, by Rep. Rees, Kans., to facilitate civil-service appointment of persons who lost opportunity therefor because of service in the armed forces after June 30, 1950, and to provide certain benefits upon appointment; to Post Office and Civil Service Committee (p. 5123).
- H. R. 5225, by Rep. Rees, Kans., to protect the security of the U. S. by preventing the employment by the Government of persons who are disloyal to, or believe in the right to strike against, the Government; to Post Office and Civil Service Committee (p. 5123).
10. BUDGETING; ACCOUNTING. H. R. 5228, by Rep. Borner, "to amend section 303 of the Budget and Accounting Act"; to Government Operations Committee (p. 5123).

ITEMS IN APPENDIX

11. PRICE SUPPORTS. Sen. Murray inserted his radio broadcast favoring 100%-of-parity price supports on basic and other commodities (p. A2763).
- Rep. Harvey inserted a newspaper editorial aligning the forces on the price-support question (pp. A2771-2).
- Rep. Harvey inserted a newspaper article discussing the differences in cotton production costs between antiquated and mechanized farming methods, claiming the efficient farmer gets "large subsidies" under the price-support program and the "marginal" farmer gets very little (pp. A2772-3).
12. ST. LAWRENCE SEAWAY. Sen. Hoey inserted a Boston Post editorial opposing this project (p. A2766).
- Rep. Rooney inserted a Brooklyn Eagle editorial opposing the project (p. A2772).
13. TREATIES. Sen. Bricker inserted a Columbus Dispatch article opposing intervention of the executive branch in consideration of S. J. Res. 1, which would limit the President's treaty powers (p. A2767).
- Rep. Smith, Wis., inserted Carl B. Rix's address favoring S. J. Res. 1 (pp. A2789-91).

PROHIBITING THE INTRODUCTION OR MOVEMENT IN INTERSTATE COMMERCE OF FLAMMABLE FABRICS

MAY 14, 1953.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. WOLVERTON, from the Committee on Interstate and Foreign
Commerce, submitted the following

R E P O R T

[To accompany H. R. 5069]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of the bill here being reported, which has this committee's unanimous approval, is to protect the public from the danger surrounding the use in wearing apparel of highly flammable textiles of the types which have caused either bodily injury or death to numerous individuals. The bill is limited in scope to wearing apparel and fabrics which are intended or sold for use in wearing apparel. It will outlaw, for example, the introduction, movement, or sale in interstate commerce of highly flammable children's cowboy playsuits, and the so-called torch sweaters or jackets which have caused serious injuries and death to a number of innocent and unsuspecting individuals in recent years.

HEARINGS

On April 16, 28, and 29, 1953, this committee held public hearings on five similar bills, H. R. 389, by Mr. Canfield of New Jersey; H. R. 2768, by Mr. Wolverson of New Jersey; H. R. 3851, by Mr. Canfield of New Jersey; H. R. 4159, by Mr. Johnson of California; and H. R. 4500 by Mr. Williams of Mississippi. The principal objective of all

these bills is to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals. H. R. 5069, the reported bill, was introduced by Mr. Wolverton, chairman of the committee, and at the direction of the committee, as a "clean" bill as a result of the committee hearings and after executive consideration of all the bills pending before the committee.

Every witness who testified before the committee, without exception, representing virtually all segments of the textile industries and trades, urged prompt and effective Federal legislation to protect the public from the dangers of highly flammable wearing apparel and fabrics used in wearing apparel, and supported these bills in principle. Moreover, the committee was urgently requested to take prompt action on this legislation. It was pointed out that if this legislation is not enacted, a variety of State and local regulations lacking in uniformity might very well ensue. It seems obvious that uniformity of regulation in this matter is necessary.

Testimony in support of legislation on this subject was received from the Federal Trade Commission, the National Cotton Council of America, the National Retail Dry Goods Association, the Tufted Textile Manufacturers Association, the Society of the Plastics Industry, the Rayon and Acetate Fiber Producers, and others.

NEED FOR THE LEGISLATION

Actual experiences in the past show that the risks and possibilities of bodily harm suffered by consumers in the use of highly flammable wearing apparel are severe and most dangerous. Still fresh in our minds is the great wave of burnings and even deaths which children have suffered when wearing highly flammable cowboy playsuits. More recently, there have been a number of cases involving the so-called explosive sweaters which were sold to the public by itinerant vendors.

The Federal Trade Commission cited a number of these incidents. One man lost his sweater in flames while sitting in a courtroom. In another instance a man driving his automobile lit a cigarette which ignited his sweater. He succeeded in pulling it over his head but suffered second- and third-degree burns on his face, neck, and hands. His car jumped the curb and collided with a telephone pole. Instances of severe burns suffered by individuals were reported from many parts of the country. A General Motors employee reported that he lit a cigarette while wearing his new Christmas sweater and that four fellow employees saved his life by beating out the flame. He said:

It was a terrifying thing. It was just as if you threw a match into a rag soaked with gasoline. There was that same "poof" sound, and all of a sudden flames were all over me.

Other examples of the danger inherent in apparently innocent but nevertheless highly flammable wearing apparel were given by Dr. Frederic Bonnet, adviser to the president of the American Viscose Corp., when he testified in 1947 before this committee on similar proposed legislation. Here is his description of a few of these tragedies and near tragedies:

Martha M. Gross, Kansas City, Mo., had a sweater patterned after angora, having long, fuzzy nap, purchased in Baltimore. The head of a match flew off

against the sweater, igniting it. Her brother and sister came to her rescue and both were burned. She was very ill and suffered disfiguring scars and her hands were injured so that she could no longer follow her profession, which was that of a stenographer and secretary.

I would like to add here that she sent a very pathetic letter to the National Bureau of Standards, and to other departments, asking whether something could not be done to prevent such accidents happening to others. She said it was all over with her case, but certainly life was still dear in America.

Then, we have the case of Doris E. Diffenbach who was injured when a cotton chenille dressing gown took fire.

Georgia Stevens, 18-year-old coed, was burned to death at a sorority initiation rite last spring at the University of Texas. It was a candlelight initiation and her gown brushed against a lighted candle. She died the next morning.

Virginia Black wore a white tulle dress at a coming-out dance at the St. Regis Hotel. The dress caught fire and she was severely burned. She is still in the hospital, I understand.

Angelica and Harry Murphy are bringing suit for \$125,000 because of some apron material, a coated fabric so highly flammable that when it came in proximity of a heated stove it took fire and severely burned her and her husband.

Mary Lee Cummings, aged 5, Whittier, Calif., was wearing a plastic raincape and backed into a radiant heater which ignited the plastic, causing second- and third-degree burns from which she died. That is the one that Mr. Dorn referred to in his testimony, and was reported by the California State fire marshal.

I need hardly refer you the twenty-odd boys 3 to 8 years of age who were burned, maimed, and 6 of whom died, as the result of burns sustained when their cowboy suits took fire.

The National Fire Protective Association records the following:

In Oakland, Calif., a girl died from burns received when her costume caught fire at a lodge entertainment.

In Magnolia, Ark., a Negro woman died from burns received when a grass dress caught fire from a can heater in a dressing room of a traveling minstrel show.

In Omaha, Nebr., a child dressed in an Indian costume which caught fire from the lighted jack-o'-lantern she was carrying. She suffered fatal burns.

I might add that children go to communion or confirmation carrying lighted candles, and have been injured.

In New Orleans on February 12, 1947, a bride, Mrs. Jess Rockenbaugh, was wearing a bathrobe which caught on fire. She was saved by her husband who cut the robe belt and pulled off the robe, but not before she suffered third-degree burns, and she is still in the hospital.

In Old Greenwich, Conn., a man's pajamas caught fire from the kitchen range. He suffered fatal burns. Those were cotton nap pajamas.

In Portland, Oreg., a man died of burns received when his trouser leg became ignited by a match. I do not know what he was wearing.

In Washington, D. C., a child's costume became ignited from a candle in a jack-o'-lantern. She was out in the yard when the accident occurred. She suffered fatal burns.

In Indianapolis, Ind., a woman pulled a light plug from a receptacle when a short circuit occurred, throwing sparks onto her dress. She suffered fatal burns.

In Yonkers, N. Y., a 4-year-old child was turned into a blazing torch as her Halloween costume was ignited by a jack-o'-lantern. She died in a hospital.

In Detroit, Mich., a man died of burns when his bathrobe caught fire when he was tending the furnace in his home.

In Denver, Colo., a woman suffered fatal burns when her clothing ignited while standing in front of a lighted fireplace.

I might mention a few others mentioned this morning. Namely: Mrs. Booth Tarkington was wearing some hair combs and was drying her hair in an ordinary hair dryer when she suffered severe burns owing to the ignition, spontaneous ignition, of those combs.

There was also a case of a woman sitting in front of a chafing dish wearing nitrocellulose buttons. These buttons practically exploded in her face and set her afire. She died of her injuries. This is given in *Coronet* under the heading of an article headed "Fire Trap."

I need not go on, I think, with the recitation of these cases. They extend over many years. They have grown more numerous within recent years

In January 1952, a rash of burnings took place, involving highly flammable sweaters. Some of these cases are summarized below:

SOME NEWSPAPER CLIPPINGS RECEIVED BY THE FEDERAL TRADE COMMISSION
RELATING EXPERIENCES INDIVIDUALS HAVE HAD WITH DANGEROUSLY INFLAM-
MABLE BRUSHED RAYON WEARING APPAREL

The Kansas City Times of January 9, 1952, reported under Los Angeles dateline of January 8 that the fire captain of Los Angeles had received reports of at least a dozen cases in which brushed fabric sweaters had caught fire and at least eight persons injured by burns.

The Kansas City Star of January 10, 1952, reported that Paul Blake of Kansas City ignited a cigarette with his lighter and when he placed the lighter into the sweater pocket, the sweater burst into flames. Four fellow employees saved him from burns by beating the flames out after half the sweater had been consumed.

The New York Times of January 12, 1952, reported that Robert Flavin of Long Branch, N. J., was burned on both hands the day previous when a sweater he was wearing flared up as he struck a match to light a cigarette.

The New York Sunday News of January 13, 1952, reported that Mrs. Mary Sheffield of Newark, N. J., was burned about both hands when the sweater she was wearing suddenly burst into flames as she turned on her gas stove to prepare a meal. The same issue newspaper reported that at least 20 persons throughout the country had been injured by flaming sweaters.

The Norristown (Pa.) Times of January 14, 1952, reported that Edward C. Martin of Schwenksville lighted a cigarette with a match and the sweater he was wearing went up "like a Roman candle." A friend extinguished the fire by throwing water on the sweater but not before Martin's neck was scorched.

The Washington Post of January 16, 1952, reported that J. Patrick Staubs of Silver Spring, Md., escaped serious injury the previous Sunday when the sweater he was wearing on a golf course caught fire as he lighted a cigarette.

The Federal Trade Commission undertook in the problem of the flaming sweaters to exercise, to the fullest, such powers as it presently has in an effort to protect the public, but as the Commission's witness pointed out during the course of the hearings, the present law is inadequate to cope fully with the problem. Legislation is needed to make it possible effectively to forestall the introduction into the market of these highly flammable products. After the dangerous articles leave the factory and get into one or more of the many channels of trade, it becomes impossible to track them down in time to prevent persons from being badly burned and even suffering death, as in the case of the playsuits which were worn by children when they took fire and resulted in the death of many of them. Legislation in which the corrective power is of a preventive nature is required to be effective in reaching the evil, as well as power to enjoin and stop continued distribution of the dangerous articles.

Your committee is advised by the Federal Trade Commission that the authority conferred by existing statutes is not adequate to forestall the danger to the public in this situation, or even to provide a temporary stop order during the time that is required for litigation to follow its necessary course to final application of the corrective power. The Commission further advises that the right of applying a temporary restraining order or injunction, or of preventive inspections, is presently not available to it. Furthermore, there is now no direct statutory authority to keep dangerously flammable garments out of the channels of interstate commerce.

Charles W. Dorn, director of the research laboratory of the J. C. Penney & Co., and chairman of the technical committee of the National Retail Dry Goods Association, appearing before the committee in support of this legislation, gave still another cogent reason for its enactment. He testified that—

The NRDGA has always believed that the United States grew strong because of the sovereignty of the individual States and has staunchly opposed extension of Federal jurisdiction over matters best handled at the State level. In this instance, however, we firmly believe that the Congress must lead the way. Recently several States and a number of city and other local bodies have considered legislation on the subject of dangerously flammable apparel. Only one State, California, has adopted such legislation. The confusion which is bound to result if the several States were to legislate individually on this subject is obvious, for in the absence of a national standard, each State and local community would provide for different guides or measurements. I can readily testify that this is not an idle conclusion, for in the past months the possibility of a Federal enactment has been the sole basis for postponing very unsatisfactory legislation in several States.

Failure by this Congress to act undoubtedly will cause a flood of haphazard local legislation which will not only bring on an impossible situation in the textile industries, but, more important, will deny to many consumers the responsible protection contained in the proposed bills.

The manufacturers of your respective States would have great difficulty in producing garments or fabrics which would comply with the different requirements of 2 or 20 different State acts, to say nothing of different local ordinances. And those residents of States which failed to act would have no protection at all. For these reasons I urge the Congress to legislate on this subject and thus insure uniformity and protection for all.

HISTORY OF LEGISLATION

Bills to prohibit the transportation in interstate commerce of highly flammable fabrics and wearing apparel have been introduced in the House beginning with the 79th Congress, 1st session (1945). In the 80th Congress, this committee held extensive hearings on three flammable fabric bills, namely, H. R. 505, by Mr. Canfield of New Jersey; H. R. 601, by Mr. Johnson of California; and H. R. 1111, by Mr. Arnold of Missouri. Similar bills were introduced during the 81st and 82d Congresses. In the 82d Congress, the Senate passed unanimously on July 3, 1952, S. 2918, a bill similar in many respects to the reported bill, H. R. 5069. S. 2918 was reported by your committee on July 4, 1952. The House took no action on that bill prior to the adjournment of the Congress on July 7, 1952.

STANDARDS OF FLAMMABILITY

The major problem in formulating legislation to control the use of dangerously flammable textiles is to discriminate between the conventional fabrics that present moderate and generally recognized hazards and the special types of fabrics which present unusual hazards and are highly dangerous.

The rate of burning of a garment or other textile product depends upon the kind of fiber, the finishing materials present, the structure of the yarn and fabric, and such circumstances as the relative humidity. In general, wool textiles ignite and burn with difficulty while cotton and rayon ignite and burn more readily. The major hazards arise from certain cotton or rayon fabrics having fuzzy or furlike surfaces which flash and burn with exceeding rapidity. Most synthetic textiles melt when heated and the molten material is capable of producing serious burns on coming in contact with the skin.

Section 4 of the bill prescribes the standards of flammability. Commercial Standard 191-53, promulgated by the Secretary of Commerce effective January 30, 1953, prescribes the standard for flammability of clothing textiles and Commercial Standard 192-53,

promulgated by the Secretary of Commerce effective May 22, 1953, prescribes the standard of flammability for vinyl plastic film.

Commercial Standard 191-53 is a voluntary standard developed through the combined effort of a number of scientific and technical groups and represents the combined opinion of an industry committee speaking for the cotton and rayon producers, and fabric manufacturers, finishers, converters, wholesalers, retailers, and consumers coordinated by the American Association of Textile Chemists and Colorists and the National Retail Dry Goods Association. The National Bureau of Standards participated in this work by active service on technical committees, by the conduct of a wide variety of investigational and testing work, and by aiding in the reconciliation of different points of view.

The flammability test provided in the Commercial Standard 191-53 makes use of strips of fabric 2 by 6 inches in dimensions. The test consists of measuring the burning time in seconds when the test piece is mounted in a specially designed apparatus and a flame is applied in a prescribed manner. Fabrics with a flame spread of more than 7 seconds are classed as having normal flammability. Those with a flame spread of less than 4 seconds are classed as rapid and intense burning, while those burning in 4 to 7 seconds are rated as having intermediate flammability. This bill is directed to those fabrics which are classed as rapid and intense burning fabrics.

Commercial Standard 191-53 states that this standard shall not apply to hats, gloves, and footwear. Notwithstanding this specific exception made in the standard, it is the intention of your committee that this standard shall be applicable to the hats, gloves, and footwear defined in section 2 (d) of this act. Commercial Standard 192-53 makes no exception to hats, gloves, and footwear.

Commercial Standard 192-53 is the industry-approved standard with respect to vinyl plastic film. Such film is used in the manufacture of various articles of wearing apparel such as raincoats, capes, hoods, pants, and aprons. The flammability test is prescribed in paragraph 3.11 of this standard.

Section 4 provides further that if at any time the Secretary of Commerce finds that the commercial standards referred to above are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings, together with such proposals for legislation as he deems appropriate.

The committee intends that the Secretary of Commerce shall make continuous studies of the suitability and effectiveness of these and related test methods in providing adequate protection to the public from the hazards of flammability.

ADMINISTRATION AND ENFORCEMENT

H. R. 5069 follows the pattern of legislation established by the Wool Products Labeling Act of 1939, and the Fur Products Labeling Act, enacted in the 82d Congress. If enacted into law, H. R. 5069 will be administered and enforced by the Federal Trade Commission. The act will take effect 1 year after the date of its enactment.

SECTION-BY-SECTION EXPLANATION OF THE BILL

Section 1 provides a short title for the act: "Flammable Fabrics Act."

Section 2 contains definitions of various terms used in the bill. "Article of wearing apparel" is defined as any costume or article of clothing worn or intended to be worn by individuals. Hats, gloves, and footwear are excepted, provided that such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals; provided also that such gloves are not more than 14 inches in length and are not affixed to or do not form an integral part of another garment; and provided that the footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

The term "fabric" is limited to material that is intended or sold for use in wearing apparel, with an exception for interlining fabrics when intended or sold for use in wearing apparel. "Interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

Section 3 declares that the manufacture for sale, the sale, or the offering for sale in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel, or fabric, or wearing apparel made of fabric which is so highly flammable as to be dangerous when worn by individuals shall be unlawful, and an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

Section 4 is the "Standard of flammability" section. It provides that any fabric or article of wearing apparel shall be deemed so "highly flammable" within the meaning of section 3 as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the commercial standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or in the commercial standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53."

If these standards are, at any time, found by the Secretary of Commerce to be inadequate for the protection of the public interest, he must submit a report to the Congress setting forth his findings, together with such proposals for legislation as he deems appropriate.

Section 5 is the administration and enforcement section. It states that sections 3, 5, 6, and 8 (b) shall be enforced by the Federal Trade Commission under rules, regulations, and procedures provided for in the Federal Trade Commission Act. It also authorizes the Commission to make inspections, tests, analyses, and examinations of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of the act.

Section 6 provides for injunction and condemnation proceedings where the Commission deems such proceedings are warranted.

Section 7 is the criminal penalty section applicable to willful violations of section 3 of 8 (b) of the act.

Section 8 is the guaranty section. Subsection (a) provides that no person shall be prosecuted under section 7 for a violation of section 3 if such person establishes a guaranty received in good faith from the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received to the effect that reasonable and representative tests were made under the procedures provided in section 4, and that such tests show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not so highly flammable as to be dangerous when worn by individuals. This subsection specifies what provisions the guaranty shall contain. Provision is made for a separate guaranty or a continuing guaranty. The furnishing of a guaranty is optional. Subsection (b) makes unlawful the furnishing of a false guaranty, and declares that any person who violates the provisions of this subsection is guilty of an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of the Federal Trade Commission Act.

Section 9 relates to shipments from foreign countries. It authorizes penalties in the case of those persons who export or attempt to export from any foreign country into the United States any wearing apparel or fabric which is so highly flammable as to be dangerous when worn by individuals.

Section 10 contains the usual separability clause and provides that the provisions of this act shall be held to be in addition to, and not in substitution of, the provisions of any other law.

Section 11 excludes from the provisions of the act common and contract carriers and freight forwarders, certain converters, processors, or finishers, as well as any article of wearing apparel or fabric which is shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable as to be dangerous when worn by individuals.

Section 12 provides that the act shall take effect 1 year after its enactment.

Section 13 authorizes the necessary appropriations to carry out the purposes of the act.

CONCLUSION

Your committee believes that the inadequacy of present statutory powers to cope effectively with the urgent problem of protecting innocent and unsuspecting individuals from bodily injury and even death resulting from the use of wearing apparel, and fabrics used in wearing apparel, which are highly flammable makes the enactment of this legislation imperative.

REPORTS FROM EXECUTIVE DEPARTMENTS IN SUPPORT OF LEGISLATION

Reports on H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500, upon which your committee held public hearings, were received from the Federal Trade Commission, the Department of Commerce, the Department of Agriculture, and the Board of Commissioners for the District of Columbia. These reports follow.

FEDERAL TRADE COMMISSION,
March 19, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. WOLVERTON: This is in response to your recent communication requesting report and comment upon H. R. 2768, entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

The text of the bill, H. R. 2768, appears to us to be in excellent shape with the exception of certain points which we believe merit careful consideration by the Congress. These points and our suggestions and comments in respect to them are presented as follows:

SCOPE OF H. R. 2768

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Such things, therefore, as blankets for children and adults, bedspreads, lap robes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. Fabric merchandise used in the home can be highly flammable and involve much danger to the safety of individuals in their constant use in close contact with individuals in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal, active, in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisions. Unless restricted at least to the extent attempted by such provisos, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason, the provisos likewise properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited, these articles present difficulty in respect to quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber filament or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grownups, and other use of yarns and filaments in connection with family-made garments or articles are not uncommon.

It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances, it is our view that the exception of fiber filaments and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45° angle in a draftproof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to flammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

Terms of the standard provide that the fabric shall be evaluated on the basis of its first having undergone dry-cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry-cleaned. For the most part, consumers do not wash or dry-clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

In respect to section 4 of the bill it is also noted that the Secretary of Commerce "is authorized and directed to establish test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures and standards by publication in the Federal Register." Further provision is made to the effect that he shall not promulgate any test method, procedure, or standard, for purposes of the bill, unless in his opinion such "are adequate for the protection of the public interest." As indicated above we regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) In further reference to standards it is noted that H. R. 2768 carries subsection 2 (i), defining the term "commercial standard." This subsection in the definitions is unnecessary since the only reference to the term in the remainder of the bill is that found in section 4 wherein the standard referred to is adequately identified and described. We therefore recommend the elimination of subsection 2 (i).

OTHER COMMENT

(6) The first word of section 5 (d) (1), namely, the word "cease," should be changed to the word "cause" to correct a misprint. Likewise, the small letter "i" in the commercial standard number in line 22 on page 5 should be changed to the figure "1" to correct a misprint.

Immediately preceding section 10 it may be helpful to insert the title "Interpretation and Separability," since titles are applied to all other sections.

In section 8 (a) the clause in lines 5 and 6 reading "under the presently existing procedures for the establishment of commercial standards" should be deleted. This clause has evidently been inserted inadvertently. As explained above, it should not be used as a limitation upon the power of the Secretary of Commerce to promulgate test standards which he finds necessary in the public interest. Opportunity for hearing or conferences of all parties concerned in the test standards would still be available under the Administrative Procedure Act, and without the above-quoted clause suggested for deletion.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of highly flammable textile merchandise reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission under its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease and desist orders were issued in due course against parties placing such fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation along the general line of H. R. 2768 which is directed to providing a means of forestalling the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

In our opinion passage of the legislation, subject to the matters suggested above, will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAMES M. MEAD, *Chairman.*

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on March 19, 1953, and on March 20, 1953, the Commission was advised that there would be no objection to the submission of the report to the Committee.

JAMES M. MEAD, *Chairman.*

[NOTE.—A similar report was received from the Federal Trade Commission on H. R. 389, a bill practically identical to H. R. 2768, and generally similar to H. R. 5069.]

THE SECRETARY OF COMMERCE,
Washington 25, April 15, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in further reply to your communications of February 10, March 12 and 25, 1953, requesting the views of this Department with respect to H. R. 2768, H. R. 3851, and H. R. 4159, respectively, bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

We believe that legislation for this purpose is essential for the protection of the public. Recent newspaper accounts of loss of life of children and adults caused by ignition of clothing, such as the appropriately designated "explosive sweaters," make out a case for the need for regulation in this field. State action is generally limited to regulation at the point of sale to the ultimate user. State action also falls on the usually innocent retailer rather than on the manufacturer who, in contrast to the retailer, is in a position to know of the potential dangerous character of the fabric utilized in making the garments. Because of the interstate traffic in these materials, Federal regulation appears to be the only effective means of eliminating the hazard.

We wish to invite your attention to the fact that H. R. 4159 and H. R. 3851 provide that the standard of flammability shall be the commercial standard now in effect and any modification thereof shall be made in accordance with presently existing procedures for the development of commercial standards.

The assent of a large segment of the affected industry is required before standards are placed in effect or modified under presently existing procedures. Where adherence to commercial standards is purely voluntary, this procedure is satisfactory. The required assent to modifications of the standards of flammability by a substantial number of the persons to be regulated by the proposed law raises a question of the constitutionality of the delegation of authority to establish modifications in the standard. The applicable law is not clear. In any event, the policy involved appears subject to question.

For these reasons, H. R. 2768, which does not require industry approval of changes in the present standard, is, in our opinion, preferable if certain minor amendments are made thereto.

On page 5, line 22 should read "Commercial Standard CS191-53, 'Flammability of Cloth-'".

On page 5, line 24, the words "shall be effective" should be inserted before the period.

On page 6, line 24, the first word should read "cause".

On page 10, lines 5 and 6, the words "under the presently existing procedures for the establishment of commercial standards" should be deleted since the present procedures for establishing standards do not relate to the furnishing of guaranties.

Subject to your consideration of these amendments, the Department recommends enactment of H. R. 2768.

We have been advised by the Bureau of the Budget that there would be no objection to our submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

C. R. SHEAFFER,
Assistant Secretary of Commerce.

[NOTE.—The reported bill H. R. 5069 is generally similar to the abovementioned bills.]

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of February 10 for a report on H. R. 2768, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

The bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel and fabrics for use in wearing apparel which are so highly flammable as to be dangerous when worn by individuals. The bill provides that the Secretary of Commerce shall establish test methods, procedures, and standards for use in determining high flammability within the meaning of the proposed act but apparently would allow the use of the present Commercial Standard for Flammability of Clothing Textiles promulgated by the Secretary of Commerce until other test methods, procedures, and standards are promulgated by him under the bill.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph 2 of section 4, and that the last paragraph of this section be deleted. If this suggestion is adopted, the definition of commercial standard in subsection 2 (i) on page 3 of the bill should also be omitted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

[NOTE.—A similar report was received from the Department of Agriculture on H. R. 389, a bill practically identical to H. R. 2768, and generally similar to H. R. 5069.]

BOARD OF COMMISSIONERS,
DISTRICT OF COLUMBIA,
March 19, 1953.

HON. CHARLES A. WOLVERTON,
Chairman, Committee on Interstate and Foreign Commerce,
United States House of Representatives,
Washington, D. C.

MY DEAR MR. WOLVERTON: The Commissioners have for report H. R. 389 and 2768, 83d Congress, substantially similar bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The Commissioners are of the view that the proposed legislation, if enacted, would tend to prevent such occurrences as the tragedies occurring in 1945 and 1946, involving the death of 1 child and the injury of 3 others as the result of wearing highly flammable cowboy suits having fleecy, brushed rayon pants. Further, in early January 1952, only the prompt action of the fire marshal of the District of Columbia, coupled with widespread publicity, brought to the attention of the public the great danger inherent in the wearing of certain sweaters then being sold in the District by a number of itinerant vendors. These sweaters, of a highly flammable, almost explosive fabric, were similar to those causing injury elsewhere in the United States, and it is believed that had the fire marshal not acted promptly, these sweaters might have caused injury, and perhaps death, to residents of the District. H. R. 2768, if enacted, would tend, it is believed, to reduce the likelihood of such sweaters, and similar highly flammable apparel and fabrics, being brought into the District for purposes of sale.

The Commissioners desire to point out that the third paragraph of section 4 of H. R. 2768 appears to be incomplete, and perhaps should be completed by inserting, immediately before the period at the end thereof, a comma and the phrase "shall be applicable". Further, the word "cease" appearing in line 24 of page 6 of H. R. 2768, and in line 1 of page 7 of H. R. 389, probably in each case should read "cause".

H. R. 2768, with its reference in the third paragraph of section 4 to the promulgation of "Commercial Standards CS 191-53, 'Flammability of Clothing Textiles'," as compared with the reference in the same paragraph of H. R. 389 to "Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131," would appear to supersede H. R. 389. Accordingly, the Commissioners make no recommendation with respect to H. R. 389, but recommend the enactment of H. R. 2768 as being in the welfare of, and constituting a safeguard for, the residents of the District of Columbia.

As you requested in your letter of January 12, 1953, on H. R. 389, and of February 19, 1953, on H. R. 2768, this report is being submitted in sextuplicate, so as to provide three copies for your files on each of these bills.

The Commissioners have been advised by the Bureau of the Budget that there is no objection on the part of that office to submission of this report to the Congress.

Very sincerely yours,

F. JOSEPH DONOHUE,
President, Board of Commissioners, District of Columbia.

[NOTE.—The reported bill, H. R. 5069, is generally similar to the above-mentioned bills.]

FEDERAL TRADE COMMISSION,
April 9, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your communication of March 20, 1953, requesting report and comment upon H. R. 3851 entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The text of this bill is in large part identical to that found in H. R. 389 and H. R. 2768, as to which we have heretofore submitted comment. In the circumstances, the new bill, H. R. 3851, retains certain points as well as some others which we believe merit careful consideration by the Congress. Our suggestions and comments in regard thereto are presented below.

We wish, however, to state at the outset that the problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

SCOPE OF H. R. 3851

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Therefore, such items as blankets for children and adults, bedspreads, laprobes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. These fabrics used in the home can be highly flammable and involve much danger to individual safety in their customary use which is in close contact with persons in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal, active, in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisos. Unless restricted at least to the extent thereby attempted, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason the limitations also properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited these articles present difficulty with respect to the possibility of their quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber, filament, or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grownups, and other use of yarns and filaments in connection with family-made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances it is our view that the exception of fiber, filaments, and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45° angle in a draftproof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to inflammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

As indicated the terms of the standard specifically provide that the fabric shall be evaluated on the basis of its first having undergone dry-cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry-cleaned. For the most part, consumers do not wash or dry-clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry-cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified

has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

We regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) Further, it is provided in section 4 (b) of H. R. 3851 that when in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test standard of flammability, provided he follows the procedure used in setting up Commercial Standard 191-53. This requirement would prohibit the Secretary of Commerce from modifying or supplementing the test unless he obtained the consent of 65 percent of the industry or at least of a majority, which is a requirement of the commercial standard procedure. Such presents an unprecedented situation of having the standard of legality or illegality under a penal and civil statute turn upon the consent of the industry to which the legislation applies.

The duty of the Secretary of Commerce to determine appropriate and adequate test standards is highly important and should not in our opinion be subjected to a veto by the industry but should be controlled by what is necessary for proper protection of the public interest. Under the proposed legislation the public's protection against dangerously flammable textile depends almost wholly upon the adequacy of the test method sanctioned by the law.

We suggest in the circumstances that the proviso in section 4 (b) be deleted. A requirement for extending opportunity for hearing and consultation with the industry and all parties concerned when issuing, modifying, or supplementing the test standards remains available under the Administrative Procedure Act.

Section 2 (i), among the definitions in the bill, should also be deleted as superfluous since the commercial standard mentioned is fully and effectively identified in section 4.

GUARANTIES

(6) The guaranty provisions contained in section 8 of H. R. 3851 are considerably different from those contained in the corresponding sections of H. R. 389 and H. R. 2768 previously presented. Under H. R. 3851 the guarantor would not as provided in the other bills guarantee that the product is safe under the test specified or that it is not so highly flammable as to be dangerous to individuals when worn. It would merely warrant in effect "that reasonable and representative tests" have been made and that these show the specific type of fabric when tested under the standard "was not highly flammable within the meaning of section 3."

Fabrics are produced and sold in large bolts containing hundreds of yards. It is generally contended that the test applied to one or more parts of such fabric may indicate it is not highly flammable, whereas tests of various other parts of the same bolt of fabric may show it to be highly flammable and dangerous. If tests made happen not to touch the latter parts or yardage of the bolt, garments made therefrom will necessarily be highly flammable and dangerous and yet will reach the public under an approved guaranty.

In the circumstances of these variables and the debatable point of what shall constitute reasonable and representative tests, there is serious doubt that the guaranty could afford much assurance of safety of the product although it would accord immunity from the act to all subsequent processors, manufacturers, distributors, and dealers.

A further point arises from the insertion in section 5 respecting the enforcement power against a false guaranty. Enforcement is thereby restricted to prevention of "knowingly issuing a false guaranty." It would be most difficult, if not impossible, for the administering agency to sustain the burden of proving the fact of "knowingly" issuing a false guaranty and of showing that the manufacturer has not within the confines of his plant or elsewhere subjected the fabric to "reasonable and representative tests," which is all the guaranty asserts.

Such provisions of the bill are materially unlike those heretofore enacted in rather comparable situations, namely, the Wool Products Labeling Act of 1939 (15 U. S. C. A. 68), the Fur Products Labeling Act passed in 1951 (15 U. S. C. A.

69), and the Food, Drug, and Cosmetic Act of 1938 (20 U. S. C. A. 331 (h), 333 (c)).

Under these statutes, to obtain the immunity which the guaranty provisions afford throughout the channels of trade, the party who desires to exercise his optional right of using a guaranty is required to specifically warrant the product to be of a type which meets the requirements of the law. These laws also provide definite and specific authority for civil enforcement against a party who gives a false guaranty, leaving to the criminal provision the offense of willful falsification. Similarly adequate enforcement authority is lacking in H. R. 3851.

The guaranty provisions used in the Wolverton bill, H. R. 2768, and in the earlier Canfield bill, H. R. 389, follow in substance those found in the above-mentioned statutes. We believe them to be preferable and it is therefore suggested that the guaranty section in the Wolverton bill, H. R. 2768, or that appearing in H. R. 389 which is identical, be used with, however, omission after the word "establishes" of the inapplicable clause, "under the presently existing procedures for the establishment of commercial standards." As so recommended the section would then read:

GUARANTY

"SEC. 8. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

"(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act."

Such suggested amendment also requires restoration of the designation "or 8 (b)" to section 7 immediately after the clause "Any person who willfully violates section 3".

Correspondingly, the designation "or 8 (b)" should be inserted in section 5 (b) in lieu of the clause "or from knowingly issuing a false guaranty under section 8".

In relation to the subject it should be noted that the issuance of a guaranty is not a requirement, but is an optional right accorded to the manufacturer or seller by which he may, if he so desires, confer immunity upon those who subsequently handle his product in the course of trade. It appears highly important, especially in view of the immunity conferred, that these provisions contain adequate safeguards against the possibilities of grave injuries resulting from articles of highly flammable goods sold to the public as made of so-called guaranteed fabrics.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of dangerously flammable textiles reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission, pursuant to its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act, has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease and desist orders were issued in due course against parties placing fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade, but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation directed to the purpose expressed in H. R. 3851 of providing a means to forestall the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

We are of the opinion that passage of the legislation amended to cover the matters suggested above will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAMES M. MEAD, *Acting Chairman.*

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on April 9, 1953, and on April 15, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

EDWARD F. HOWREY, *Chairman.*

[NOTE.—An identical report was received from the Federal Trade Commission on H. R. 4159, a bill identical to H. R. 3851.]

DEPARTMENT OF AGRICULTURE.

Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,

*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of March 12, 1953, for a report on H. R. 3851, a bill to prohibit the introduction or movement in interstate commerce or articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

This bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel, and fabrics for use in wearing apparel, which are so highly flammable as to be dangerous when worn by individuals. The bill provides for the use of commercial standards promulgated by the Secretary of Commerce for determining high flammability under the act.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures, and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph (a), section 4, and that paragraph (b) of this section be deleted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

[NOTE.—An identical report was received from the Department of Agriculture on H. R. 4159, a bill identical to H. R. 3851.]

[Report No. 425]

MAY 7, 1953

MAY 14, 1953

1 (b) The term “commerce” means commerce among the
2 several States or with foreign nations, or in any Territory of
3 the United States or in the District of Columbia, or between
4 any such Territory and another, or between any such Terri-
5 tory and any State or foreign nation, or between the District
6 of Columbia and any State or Territory or foreign nation.

7 (c) The term “Territory” includes the insular posses-
8 sions of the United States and also any Territory of the
9 United States.

10 (d) The term “article of wearing apparel” means any
11 costume or article of clothing worn or intended to be worn
12 by individuals except hats, gloves, and footwear: *Provided*,
13 *however*, That such hats do not constitute or form part
14 of a covering for the neck, face, or shoulders when worn
15 by individuals: *Provided further*, That such gloves are not
16 more than fourteen inches in length and are not affixed to or
17 do not form an integral part of another garment: *And pro-*
18 *vided further*, That such footwear does not consist of hosiery
19 in whole or in part and is not affixed to or does not form
20 an integral part of another garment.

21 (e) The term “fabric” means any material (other than
22 fiber, filament, or yarn) woven, knitted, felted, or other-
23 wise produced from or in combination with any natural
24 or synthetic fiber, film, or substitute therefor which is in-
25 tended or sold for use in wearing apparel except that in-

1 terlining fabrics when intended or sold for use in wear-
2 ing apparel shall not be subject to this Act.

3 (f) The term "interlining" means any fabric which is
4 intended for incorporation into an article of wearing apparel
5 as a layer between an outer shell and an inner lining.

6 (g) The term "Commission" means the Federal Trade
7 Commission.

8 (h) The term "Federal Trade Commission Act" means
9 the Act of Congress entitled "An Act to create a Federal
10 Trade Commission, to define its powers and duties, and
11 for other purposes", approved September 26, 1914, as
12 amended.

13 PROHIBITED TRANSACTIONS

14 SEC. 3. (a) The manufacture for sale, the sale,
15 or the offering for sale, in commerce, or the importa-
16 tion into the United States, or the introduction, deliv-
17 ery for introduction, transportation or causing to be
18 transported in commerce or for the purpose of sale or de-
19 livery after sale in commerce, of any article of wearing
20 apparel which under the provisions of section 4 of this Act
21 is so highly flammable as to be dangerous when worn by
22 individuals, shall be unlawful and shall be an unfair method
23 of competition and an unfair and deceptive act or practice
24 in commerce under the Federal Trade Commission Act.

25 (b) The sale or the offering for sale, in commerce, or the

1 importation into the United States, or the introduction, de-
2 livery for introduction, transportation or causing to be trans-
3 ported in commerce or for the purpose of sale or delivery
4 after sale in commerce, of any fabric which under the pro-
5 visions of section 4 of this Act is so highly flammable as to
6 be dangerous when worn by individuals, shall be unlawful
7 and shall be an unfair method of competition and an unfair
8 and deceptive act or practice in commerce under the Federal
9 Trade Commission Act.

10 (c) The manufacture for sale, the sale, or the offering
11 for sale, of any article of wearing apparel made of
12 fabric which under section 4 is so highly flammable
13 as to be dangerous when worn by individuals and which has
14 been shipped or received in commerce shall be unlawful
15 and shall be an unfair method of competition and an unfair
16 and deceptive act or practice in commerce under the Federal
17 Trade Commission Act.

18 STANDARD OF FLAMMABILITY

19 SEC. 4. (a) Any fabric or article of wearing apparel
20 shall be deemed so highly flammable within the meaning
21 of section 3 of this Act as to be dangerous when worn by
22 individuals if such fabric or any uncovered or exposed part
23 of such article of wearing apparel exhibits rapid and intense
24 burning when tested under the conditions and in the manner
25 prescribed in the Commercial Standard promulgated by the

1 Secretary of Commerce effective January 30, 1953, and
2 identified as "Flammability of Clothing Textiles, Commercial
3 Standard 191-53", or in the Commercial Standard pro-
4 mulgated by the Secretary of Commerce effective May 22,
5 1953, and identified as "General Purpose Vinyl Plastic
6 Film, Commercial Standard 192-53". For the purposes of
7 this Act, such Commercial Standard 191-53 shall apply
8 with respect to the hats, gloves, and footwear covered by
9 section 2 (d) of this Act, notwithstanding any exception
10 contained in such Commercial Standard with respect to hats,
11 gloves, and footwear.

12 (b) If at any time the Secretary of Commerce finds that
13 the Commercial Standards referred to in subsection (a) of
14 this section are inadequate for the protection of the public
15 interest, he shall submit to the Congress a report setting forth
16 his findings together with such proposals for legislation as he
17 deems appropriate.

18 ADMINISTRATION AND ENFORCEMENT

19 SEC. 5. (a) Except as otherwise specifically provided
20 herein, sections 3, 5, 6, and 8 (b) of this Act shall be en-
21 forced by the Commission under rules, regulations and pro-
22 cedures provided for in the Federal Trade Commission Act.

23 (b) The Commission is authorized and directed to pre-
24 vent any person from violating the provisions of section 3
25 of this Act in the same manner, by the same means and with

1 the same jurisdiction, powers and duties as though all appli-
2 cable terms and provisions of the Federal Trade Commission
3 Act were incorporated into and made a part of this Act;
4 and any such person violating any provision of section 3 of
5 this Act shall be subject to the penalties and entitled to the
6 privileges and immunities provided in said Federal Trade
7 Commission Act as though the applicable terms and provi-
8 sions of the said Federal Trade Commission Act were incor-
9 porated into and made a part of this Act.

10 (c) The Commission is authorized and directed to pre-
11 scribe such rules and regulations as may be necessary and
12 proper for purposes of administration and enforcement of
13 this Act.

14 (d) The Commission is authorized to—

15 (1) cause inspections, analyses, tests, and exami-
16 nations to be made of any article of wearing apparel
17 or fabric which it has reason to believe falls within the
18 prohibitions of this Act; and

19 (2) cooperate on matters related to the purposes
20 of this Act with any department or agency of the Gov-
21 ernment; with any State, Territory, or possession or
22 with the District of Columbia; or with any department,
23 agency, or political subdivision thereof; or with any
24 person.

1 INJUNCTION AND CONDEMNATION PROCEEDINGS

2 SEC. 6. (a) Whenever the Commission has reason to
3 believe that any person is violating or is about to violate
4 section 3 of this Act, and that it would be in the public
5 interest to enjoin such violation until complaint under the
6 Federal Trade Commission Act is issued and dismissed by
7 the Commission or until order to cease and desist made
8 thereon by the Commission has become final within the
9 meaning of the Federal Trade Commission Act or is set
10 aside by the court on review, the Commission may bring suit
11 in the district court of the United States or in United States
12 court of any Territory for the district or Territory in which
13 such person resides or transacts business, to enjoin such vio-
14 lation and upon proper showing a temporary injunction or
15 restraining order shall be granted without bond.

16 (b) Whenever the Commission has reason to believe
17 that any article of wearing apparel has been manufactured
18 or introduced into commerce or any fabric has been intro-
19 duced in commerce in violation of section 3 of this Act, it
20 may institute proceedings by process of libel for the seizure
21 and confiscation of such article of wearing apparel or fabric
22 in any district court of the United States within the jurisdic-
23 tion of which such article of wearing apparel or fabric is
24 found. Proceedings in cases instituted under the authority of

1 this section shall conform as nearly as may be to proceedings
2 in rem in admiralty, except that on demand of either party
3 and in the discretion of the court, any issue of fact shall be
4 tried by jury. Whenever such proceedings involving identi-
5 cal articles of wearing apparel or fabrics are pending in two or
6 more jurisdictions, they may be consolidated for trial by order
7 of any such court upon application seasonably made by any
8 party in interest upon notice to all other parties in interest.
9 Any court granting an order of consolidation shall cause
10 prompt notification thereof to be given to other courts hav-
11 ing jurisdiction in the cases covered thereby and the clerks
12 of such other courts shall transmit all pertinent records and
13 papers to the court designated for the trial of such consoli-
14 dated proceedings.

15 (c) In any such action the court upon application
16 seasonably made before trial shall by order allow any party
17 in interest, his attorney or agent, to obtain a representative
18 sample of the article of wearing apparel or fabric seized.

19 (d) If such articles of wearing apparel or fabrics are
20 condemned by the court they shall be disposed of by destruc-
21 tion, by delivery to the owner or claimant thereof upon pay-
22 ment of court costs and fees and storage and other proper
23 expenses and upon execution of good and sufficient bond to
24 the effect that such articles of wearing apparel or fabrics will
25 not be disposed of for wearing apparel purposes until prop-

erly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show

1 that the fabric covered by the guaranty, or used in the wearing
2 apparel covered by the guaranty, is not, under the provisions
3 of section 4 of this Act, so highly flammable as to be danger-
4 ous when worn by individuals, and (2) has not, by further
5 processing, affected the flammability of the fabric or wearing
6 apparel covered by the guaranty which he received. Such
7 guaranty shall be either (1) a separate guaranty specifically
8 designating the wearing apparel or fabric guaranteed, in
9 which case it may be on the invoice or other paper relating
10 to such wearing apparel or fabric; or (2) a continuing
11 guaranty filed with the Commission applicable to any wear-
12 ing apparel or fabric handled by a guarantor, in such form
13 as the Commission by rules or regulations may prescribe.

14 (b) It shall be unlawful for any person to furnish, with
15 respect to any wearing apparel or fabric, a false guaranty
16 (except a person relying upon a guaranty to the same effect
17 received in good faith signed by and containing the name and
18 address of the person by whom the wearing apparel or fabric
19 guaranteed was manufactured or from whom it was received)
20 with reason to believe the wearing apparel or fabric falsely
21 guaranteed may be introduced, sold, or transported in com-
22 merce, and any person who violates the provisions of this
23 subsection is guilty of an unfair method of competition, and
24 an unfair or deceptive act or practice, in commerce within
25 the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the

1 ordinary course of its business; or (b) to any converter, proc-
2 essor, or finisher in performing a contract or commission serv-
3 ice for the account of a person subject to the provisions
4 of this Act: *Provided*, That said converter, processor, or
5 finisher does not cause any article of wearing apparel or
6 fabric to become subject to this Act contrary to the terms
7 of the contract or commission service; or (c) to any article
8 of wearing apparel or fabric shipped or delivered for ship-
9 ment into commerce for the purpose of finishing or proc-
10 essing to render such article or fabric not so highly flam-
11 mable, under the provisions of section 4 of this Act, as to be
12 dangerous when worn by individuals.

13 EFFECTIVE DATE

14 SEC. 12. This Act shall take effect one year after the
15 date of its passage.

16 AUTHORIZATION OF NECESSARY APPROPRIATIONS

17 SEC. 13. There is hereby authorized to be appropriated
18 such sums as may be necessary to carry out the provisions
19 of this Act.

83^d CONGRESS
1ST SESSION

H. R. 5069

[Report No. 425]

A BILL

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

By Mr. WOLVERTON

MAY 7, 1953

Referred to the Committee on Interstate and Foreign
Commerce

MAY 14, 1953

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued May 27, 1953

For actions of May 26, 1953

83rd-1st, No. 96

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

CONTENTS

Appropriations.....1,29	Flammable fabrics.....3	Rubber.....18
Budgeting.....12	Flood control.....1	St. Lawrence seaway.....22
Buildings.....17	Foreign aid.....27	School-lunch program.....6
Commodity exchanges.....14	Interest rates.....11	Student-exchange pro-gram.....26
CCC pea sales.....2	Lands, grazing.....9	Trade, foreign.....25
Corn.....10	Leave.....5,8	Transportation.....4
Economic problems.....19	Personnel.....5,8,16,24	Watershed projects.....20
Education.....1,15	Prices, support.....10	Wheat.....10,27
Electrification.....23	Reclamation.....13	
Expenditures.....28	Reorganization.....7,21	

HIGHLIGHTS: Senate passed measure for single appropriation bill and bill to amend Leave Act. Sen. Mansfield criticized stockmen's grazing bill. Senate made USDA reorganization plan its unfinished business. Sens. Young and Mundt defended price supports and favored increases in corn and wheat carryovers. House passed Labor-HEW appropriation bill. House debated Army civil appropriation bill. House committee ordered reported bill to repeal Thomas leave rider. Rep. Shelley criticized CCC's sale of peas. Rep. Hope favored USDA reorganization plan. Rep. Hope presented watershed program.

HOUSE

1. APPROPRIATIONS. Passed, 395-2, with amendments H. R. 5246, the Labor-HEW appropriation bill for 1954. Adopted, 237-156, the amendment to increase by \$6 million the funds for payments to school districts in Federally impacted areas (this amendment had previously been agreed to in Committee of the Whole). (pp. 5769-71.)
Began debate on H. R. 5376, the Army civil functions appropriation bill (pp. 5772-804). This bill contains flood-control items for the Corps of Engineers. See end of this Digest for excerpts from the committee report.
2. CCC PEA SALES. Rep. Shelley criticized CCC for its "sale of 30,000 tons of dried winter peas to a select group of buyers at a price well below the sale price then current," inserted his letter to the Secretary asking for details of this transaction, and criticized the lack of a reply as yet. Reps. Hope and Cooley discussed the subject with Rep. Shelley and implied that the Agriculture Committee would look into it. (pp. 5805-9.)
3. FLAMMABLE FABRICS. The Rules Committee reported a resolution for consideration of H. R. 5069, prohibiting interstate commerce in highly flammable apparel and fabrics (pp. 5805, 5813).
4. TRANSPORTATION. The Interstate and Foreign Commerce Committee ordered reported (but did not actually report) H. R. 3203, restricting the ICC from exercising control over the duration of leases, contracts, and other agreements for motor-vehicle use by common carriers (p. D472).

5. PERSONNEL. The Judiciary Committee ordered reported (but did not actually report) H. R. 4126, to continue war-risk and detention benefits for Federal employees until July 1, 1954 (p. D472).

The Post Office and Civil Service Committee ordered reported (but did not actually report) H. R. 4506, to repeal the Thomas leave rider. The Daily Digest states: "As amended, the bill repeals the Thomas leave rider beginning January of next year (1954) and extends the time for taking leave earned in the calendar year 1952 until January 2, 1954. It also amends the Annual and Sick Leave Act of 1951 by changing the 60 days of leave which employees may accumulate to 26 days, and changing the 90 days which employees outside the United States (except Foreign Service employees) may accumulate to 60 days. The bill changes the leave year so that it ends with the last full pay period. This will give employees an opportunity to use leave over the Christmas holidays without losing it in cases where they have accumulated excess leave. Leave already accumulated is preserved under the terms of the amended bill." (p. D473.)

6. SCHOOL LUNCH PROGRAM. Received resolutions from the Mass. Legislature opposing reduction in school-lunch funds (p. 5814).

SENATE

7. REORGANIZATION. S. Res. 100, disapproving Reorganization Plan No. 2 of 1953, relating to this Department, was made the unfinished business (p. 5767).

8. PERSONNEL. Passed with amendments H. R. 4654, to amend the Annual and Sick Leave Act of 1951 (see Digest 95 for provisions). Agreed to a Williams amendment to bar payments for terminal leave in excess of 60 days and to require refund of terminal-leave payments in certain cases of reemployment. (pp. 5733-7.)

9. GRAZING LANDS. Sen. Mansfield criticized H. R. 4023 and S. 1491, the so-called stockmen's grazing bills, and inserted communications he has received against the bills (pp. 5718-28).

10. PRICE SUPPORTS. Sens. Young and Mundt defended the price-support program and recommended increases in corn and wheat carryovers (pp. 5757-60).

Received from the Hawaii Legislature a resolution favoring price supports for rice and taro grown in Hawaii (pp. 5714-5).

11. INTEREST RATES. Sen. Bush defended the recent increases in interest rates on Government securities (pp. 5728-33).

12. BUDGETING. Agreed, as reported, to S. Con. Res. 8, providing for a consolidated appropriation bill (pp. 5737-8, 5743-54, 5760-7). The measure also requires appropriation bills to set forth limitations on obligations during the budget year, and requires revenue estimates to be submitted in connection with appropriation bills.

13. RECLAMATION. Received a Calif. Legislature resolution urging renegotiation of irrigation contracts in the Central Valley project (p. 5714).

BILLS INTRODUCED

14. COMMODITY EXCHANGES. S. 1990, by Sen. Young, to strengthen the investigation and enforcement provisions of the Commodity Exchange Act; to Agriculture and Forestry Committee (p. 5715). Remarks of author (p. 5716).

15. EDUCATION. H. R. 5397, by Rep. Howell, to provide for a National War Memorial Arts Commission; to Education and Labor Committee (p. 5814).

CONSIDERATION OF H. R. 5069

MAY 26, 1953.—Referred to the House Calendar and ordered to be printed

Mr. ALLEN of Illinois, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 250]

The Committee on Rules, having had under consideration House Resolution 250, report the same to the House with the recommendation that the resolution do pass.

26008



House Calendar No. 62

83D CONGRESS
1ST SESSION

H. RES. 250

[Report No. 472]

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1953

Mr. ALLEN of Illinois, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That upon the adoption of this resolution it
2 shall be in order to move that the House resolve itself into the
3 Committee of the Whole House on the State of the Union for
4 the consideration of the bill (H. R. 5069) to prohibit the
5 introduction or movement in interstate commerce of articles
6 of wearing apparel and fabrics which are so highly flammable
7 as to be dangerous when worn by individuals, and for other
8 purposes. After general debate, which shall be confined to
9 the bill, and shall continue not to exceed one hour, to be
10 equally divided and controlled by the chairman and ranking
11 minority member of the Committee on Interstate and For-
12 eign Commerce, the bill shall be read for amendment under

1 the five-minute rule. At the conclusion of the consideration
 2 of the bill for amendment, the Committee shall rise and
 3 report the bill to the House with such amendments as may
 4 have been adopted, and the previous question shall be con-
 5 sidered as ordered on the bill and amendments thereto to
 6 final passage without intervening motion except one motion
 7 to recommit.

RESOLUTION

Providing for the consideration of H. R. 5069,
 a bill to prohibit the introduction or move-
 ment in interstate commerce of articles of
 wearing apparel and fabrics which are so
 highly flammable as to be dangerous when
 worn by individuals, and for other purposes.

By Mr. ARREN of Illinois

MAY 26, 1953

Referred to the House Calendar and ordered to be
 printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

June 4, 1953
June 3, 1953
83rd-1st, No. 101

CONTENTS

Access roads.....1	Economic controls.....11	Organization.....13
Adjournment.....6	Electrification.....4	Personnel.....1
Appropriations.....1,4,5,8	Experiment stations.....3	Reorganization.....7,21
Budget.....20	Flammable fabrics.....9,24	Report.....3
Buildings.....16	Foreign aid.....5	St. Lawrence seaway.....2,19
CCC pea sales.....10	Forest highways.....1	Small business.....14
Conservation.....18	Housing, farm.....12	Taxation.....20
Contracts.....23	Lands, grazing.....17	T.V.A.....4
Credit union.....25	Legislative program.....6	Trade, foreign.....22
Disbursing.....15	Loans, housing.....12	Veterans' benefits.....12

HIGHLIGHTS: Senate debated State, Justice, Commerce appropriation bill. Senate Subcommittee approved for reporting to full committee USDA appropriation bill. House rejected motion to consider resolution disapproving USDA reorganization plan. House passed flammable fabrics bill. House committee reported bills establishing commissions on intergovernmental relations and organization.

SENATE

1. APPROPRIATIONS. Continued debate on H.R. 4974, the State, Justice, Commerce appropriation bill for 1954 (pp. 6175, 6182-223). Rejected, 35-36, a motion to suspend the rules to permit consideration en bloc of three Carlson amendments granting heads of the State, Justice and Commerce Departments complete discretion to terminate the services of employees outside the competitive civil service (pp. 6217-21). Agreed to committee amendments providing \$14,000,000 for forest highways, and \$5,500,000 for access roads (p. 6201).
The Appropriations Subcommittee approved for reporting to the full committee with amendments H.R. 5227, the Agriculture appropriation bill for 1954 (p. D500).
2. ST. LAWRENCE SEAWAY. The Foreign Relations Subcommittee ordered reported to the full committee with amendments S. 589, to create the St. Lawrence Seaway Development Corporation (p. D501).
3. EXPERIMENT STATIONS. Received a printed copy of USDA's report on the agricultural experiment stations for 1952, which is to take place of a typewritten report received Jan. 2; to Agriculture and Forestry Committee (p. 6170).
4. TVA. Sen. Kefauver urged appropriation of additional funds for more power-generating facilities for TVA, and inserted a Tenn. Railroad and Public Utilities Comm. resolution on this subject (pp. 6170-1).

5. FOREIGN AID. Sen. Wiley spoke "on the crucial importance of the United Nations International Children's Emergency Fund," and inserted various messages urging continued U. S. support and appropriations for this fund (pp. 6174-5).
6. LEGISLATIVE PROGRAM as announced by the acting majority leader: Thurs., after completion of the State, Justice, Commerce appropriation bill, the Senate will consider 3 "noncontroversial" bills, including S. 690, authorizing GSA to enter into lease-purchase agreements covering real property; and S. 1461, concerning common carriers' requests for increased rates; and then "the acting majority leader would propose that the Senate recess until Monday" (p. 6213).

HOUSE

7. REORGANIZATION. Approved Reorganization Plan No. 2, for this Department, by rejecting, 128-261, a motion to consider H. Res. 236 disapproving this plan. Reps. Fountain, Abernethy, and Hope analyzed the reorganization plan and inserted statements made by the Secretary and his staff on this and former reorganization plans of the Department (pp. 6136-51). This plan goes into effect today, June 4.
8. APPROPRIATIONS. Passed H.R. 5471, the D. C. appropriation bill for 1954 (pp. 6135-36).
9. FLAMMABLE FABRICS. Passed with a clarifying amendment H.R. 5069, to prohibit movement in interstate commerce of highly flammable fabrics and wearing apparel (pp. 6155-64).
10. CCC PEA SALES. The "Daily Digest" states: "The Hoeven subcommittee announced today that public hearings have been scheduled for Wednesday morning, June 17, to study the CCC sale of 80,000 tons of Austrian winter peas to 3 west-coast concerns" (p. D503).
11. ECONOMIC CONTROLS. The "Daily Digest" states that the Banking and Currency Committee, in consideration of S. 1081, providing for temporary economic controls, "agreed unanimously to strike all of title 8 out of the bill, which provided for a 90-day freeze on prices, wages, services, etc., in the case of emergency. Also struck out of title 6 all the provisions concerning consumer credit and real-estate credit controls." (p. D503).
12. FARM HOUSING. The Veterans' Affairs Committee reported without amendment H.R. 5456, extending to June 30, 1954 the direct home and farmhouse loan authority of the Administrator of Veterans' Affairs under title 3 of the Servicemen's Readjustment Act of 1944 (H.Rept. 501) (p. 6167).
13. ORGANIZATION. The Government Operations Committee reported with amendment H.R. 4406 and H.R. 992, to establish commissions on intergovernmental relations and organization of the Executive Branch (H. Repts. 504 and 505). The Rules Committee reported resolutions providing for consideration of these bills (p. 6167).
14. SMALL BUSINESS. The Rules Committee reported a resolution for the consideration of H.R. 5141, to create the Small Business Administration (p. 6167).
15. DISBURSING. The Government Operations Committee reported without amendment H.R. 3770, to amend the act of Dec. 23, 1944, authorizing certain transactions by disbursing officers (H. Rept. 511). A resolution for consideration of this bill was also reported (p. 6167).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Public Health Service Act, with respect to the provisions of certain medical and dental treatment and hospitalization for certain officers and employees of the former Lighthouse Service and for dependents and widows of officers and employees of such Service."

A motion to reconsider was laid on the table.

FLAMMABLE FABRICS ACT

Mr. NICHOLSON. Mr. Speaker, by direction of the Committee on Rules, I call up H. R. 250 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes. After general debate, which shall be confined to the bill, and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. NICHOLSON. Mr. Speaker, I yield 30 minutes to the gentleman from Arkansas [Mr. HARRIS], and yield myself such time as I may desire.

Mr. Speaker, this bill makes in order the consideration of H. R. 5069, a bill which will stop the sending of inflammable goods in interstate commerce. The situation has been quite serious in the last few years. It developed that the States could not take care of the matter so it became certain that the Federal Government should look into it. We have a bill before us now which will be properly discussed, I know. So far as the majority is concerned, we have no requests for time, Mr. Speaker.

Mr. HARRIS. Mr. Speaker, I do not have any requests for time on the rule on this side. As far as I know, there is no objection, to the rule.

This is a very important bill. It is one that I think the Members of the House are very much interested in and therefore I think the rule should be adopted in order that we can take it up.

Mr. NICHOLSON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. WOLVERTON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 5069) to prohibit the

introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 5069, with Mr. SADLAK in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. WOLVERTON. Mr. Chairman, I yield myself such time as I may require.

PURPOSE OF LEGISLATION

Mr. Chairman, this bill, H. R. 5069, now being considered is, in my opinion, one of the most important bills which has been brought before us during this session of the Congress. Its purpose is to protect the public from the dangers surrounding the use in wearing apparel of highly flammable textiles of the types which have caused either bodily injury or death to numerous individuals. The bill is limited in scope to wearing apparel and fabrics which are intended for sale for use in wearing apparel. It will outlaw, for example, the introduction, movement, or sale in interstate commerce of highly flammable children's cowboy playsuits and the so-called torch sweaters or jackets which have caused serious injuries and death to a number of innocent and unsuspecting individuals in recent years.

Legislation seeking to effect this purpose has been before the Congress for several years. At the last session a bill was passed by the Senate and came to the House. It was reported favorably by the House, but in the closing days of the session there was apparently not sufficient time; at least, the opportunity was not given for its passage. This legislation, as I said, has been before the Congress for some considerable time. There have been some individuals above others who have been particularly outstanding in their efforts to procure legislation of this kind. I think it may appropriately be said that our colleague, the gentleman from California [Mr. JOHNSON], was the pioneer of this type of legislation. In the 79th Congress he introduced two bills to eliminate dangerously flammable fabrics from interstate commerce. His second bill was very similar to the one we are considering today. It provided that the Bureau of Standards establish a simple test of flammability to which fabrics must adhere if they were to be shipped in interstate commerce. He has had similar bills in every Congress since. We are pleased to have his support of the bill being considered today, because it is based on so much study and experience with the problem that this bill will solve.

In addition to him the gentleman from New Jersey [Mr. CANFIELD] has likewise been an individual who through a period of years has shown extreme interest in this type of legislation. He has brought to the attention of the committee time and again bills that would effectuate the fundamental purpose of this legislation. At all times he has been

helpful and cooperative with our committee in its endeavor to bring before this House satisfactory legislation on this subject. His interest has likewise covered a period of years. His contribution to the subject has been worth while and extremely helpful. We consequently, as a committee, feel greatly indebted to him for his endeavors in behalf of this legislation. There are also other individuals to whom I could properly refer as having made a real contribution to the work of the committee in its consideration of this legislation. Among those I have in mind in this connection is the gentleman from Mississippi [Mr. WILLIAMS], a member of the Committee on Interstate and Foreign Commerce, who at all times has been extremely helpful.

SUPPORT FOR LEGISLATION

Mr. Chairman, this bill has the unanimous approval of the entire Committee on Interstate and Foreign Commerce. It was introduced by me, chairman of the committee, at the direction of the committee, as a "clean" bill as a result of the committee hearings and after executive consideration of all the bills pending before the committee.

Every witness who testified before the committee during its hearings on this legislation urged prompt and effective Federal legislation to protect the public from the dangers of highly flammable wearing apparel and fabrics used in wearing apparel, and supported, in principle, the bills pending before the committee dealing with this subject. Moreover, the committee was urgently requested to take prompt action on this legislation. It was pointed out that if this legislation is not enacted, a variety of State and local regulations lacking in uniformity might very well ensue. It seems obvious that uniformity of regulation in this matter is necessary.

Testimony in support of legislation on this subject was received from the Federal Trade Commission, the National Cotton Council of America, the National Retail Dry Goods Association, the Tufted Textile Manufacturers Association, the society of the plastics industry, the rayon and acetate fiber producers, and others.

Favorable reports on this legislation were received from the Federal Trade Commission, the Department of Commerce, the Department of Agriculture, and the Board of Commissioners for the District of Columbia.

NEED FOR THE LEGISLATION

Actual experiences in the past show that the risks and possibilities of bodily harm suffered by consumers in the use of highly flammable wearing apparel are severe and most dangerous. Still fresh in our minds is the great wave of burnings and even deaths which children have suffered when wearing highly flammable cowboy playsuits. More recently, there have been a number of cases involving the so-called explosive sweaters which were sold to the public by itinerant vendors. Many incidents, were cited, during our hearings and in the committee's report on this legislation, of tragedies which occurred as a result of the use of highly flammable wearing apparel.

Your committee is advised by the Federal Trade Commission that the authority conferred by existing statutes is not adequate to forestall the introduction of these products into the channels of trade. The Commission can only proceed after the material has gotten into the market. The Commission further advises that the right of applying a temporary restraining order or injunction, or of preventive inspections, is presently not available to it.

Legislation is needed to make it possible effectively to forestall the introduction into the market of these highly flammable products. After the dangerous articles leave the factory and get into one or more of the many channels of trade, it becomes impossible to track them down in time to prevent persons from being badly burned and even suffering death, as in the case of the playsuits which were worn by children when they took fire and resulted in the death of many of them. Legislation in which the corrective power is of a preventive nature is required to be effective in reaching the evil, as well as power to enjoin and stop continued distribution of the dangerous articles.

HISTORY OF LEGISLATION

The first bill to prohibit the interstate movement of highly flammable fabrics was introduced in the House by the gentleman from California [Mr. JOHNSON] on March 6, 1945. It was H. R. 2496 of the 79th Congress. The stated purpose of this bill was to prohibit the use of the mails or instrumentalities of interstate commerce for the sale or delivery of any article of wearing apparel, cloth, drapery or other fabric material made from or containing any "hazardous, explosive or other substance in sufficient quantity as to make such fabric or material more highly inflammable than cotton cloth in its natural state." On February 11, 1946, Mr. JOHNSON introduced another bill, H. R. 5445, which declared the transportation of any inflammable textile fabric in interstate commerce to be unlawful. The term "inflammable textile fabric" was defined in the bill as "any textile fabric of combustible fibers which have a nap or pile and which flash or burn in horizontal position with the nap or pile on the upper face at greater average rate than 1 inch per second, the size and condition of samples and methods of testing to be in accordance with the procedure prescribed in National Bureau of Standards Letter Circular No. 818 on Flameproofing of Textiles."

In the 80th Congress, three bills were introduced in the House to prohibit the introduction or movement in interstate commerce of certain highly flammable textile fabrics. These bills were H. R. 505, by Mr. Canfield, of New Jersey; H. R. 601, by Mr. Johnson, of California; and H. R. 1111, by Mr. Arnold, of Missouri. Your committee held extensive hearings on these bills in March of 1947. The committee recognized the need for enacting legislation on flammable fabrics. However, no bill was reported to the House chiefly because no adequate method of testing the flammability of

such textiles was available at that time. Indeed, such a test method was finally approved and promulgated by the Secretary of Commerce only 5 months ago.

In the 81st Congress, Mr. JOHNSON, of California, introduced H. R. 4149, relating to this subject. No action was taken by the committee on this bill.

In the 82d Congress, 7 bills on this subject were introduced in the House, namely, H. R. 6076 and H. R. 7256, by Mr. Canfield, of New Jersey; H. R. 6077 and H. R. 7257, by Mr. Johnson, of California; H. R. 6099 and H. R. 7258, by Mr. Seely-Brown, of Connecticut; and H. R. 6290 by Mr. Edwin Arthur Hall, of New York. No hearings were held on these bills by the committee.

On March 26, 1952, Senator JOHNSON, of Colorado, introduced in the Senate S. 2918. The Senate Committee on Interstate and Foreign Commerce held public hearings on this legislation in May 1952, during which certain amendments were suggested. On June 16, 1952, Senator JOHNSON introduced an amendment in the nature of a substitute to the original S. 2918. This amended bill was circulated to the industry, the Federal Trade Commission, and the Department of Commerce. On June 27, 1952, the Senate committee reported favorably S. 2918 with an amendment, incorporating in the reported bill the amendments suggested by the industry and the executive departments. On July 3, 1952, S. 2918, as reported by the Senate Commerce Committee was amended on the floor of the Senate and passed unanimously.

Your committee reported favorably to the House S. 2918 on July 4, 1952. However, the House took no action on that bill prior to the adjournment of the Congress on July 7, 1952.

In the present Congress, five similar bills were introduced in the House, namely, H. R. 389, by Mr. CANFIELD, of New Jersey; H. R. 2768, by Mr. WOLVERTON of New Jersey; H. R. 3851, by Mr. CANFIELD, of New Jersey; H. R. 4159, by Mr. JOHNSON, of California; and H. R. 4500, by Mr. WILLIAMS, of Mississippi.

STANDARDS OF FLAMMABILITY

The major problem in formulating legislation to control the use of dangerously flammable textiles is to discriminate between the conventional fabrics that present moderate and generally recognized hazards and the special types of fabrics which present unusual hazards and are highly dangerous.

The rate of burning of a garment or other textile product depends upon the kind of fiber, the finishing materials present, the structure of the yarn and fabric, and such circumstances as the relative humidity. In general, wool textiles ignite and burn with difficulty while cotton and rayon ignite and burn more readily. The major hazards arise from certain cotton or rayon fabrics having fuzzy or furlike surfaces which flash and burn with exceeding rapidity. Most synthetic textiles melt when heated and the molten material is capable of producing serious burns on coming in contact with the skin.

Section 4 of the reported bill prescribes the standards of flammability.

Commercial Standard 191-93, promulgated by the Secretary of Commerce effective January 30, 1953, prescribes the standard flammability of clothing textiles and Commercial Standard 192-53, promulgated by the Secretary of Commerce effective May 22, 1953, prescribes the standard of flammability for vinyl plastic film.

Commercial Standard 191-53 is a voluntary standard developed through the combined effort of a number of scientific and technical groups and represents the combined opinion of an industry committee speaking for the cotton and rayon producers, and fabric manufacturers, finishers, converters, wholesalers, retailers, and consumers coordinated by the American Association of Textile Chemists and Colorists and the National Retail Dry Goods Association. The National Bureau of Standards participated in this work by active service on technical committees, by the conduct of a wide variety of investigational and testing work, and by aiding in the reconciliation of different points of view.

This standard is the culmination of almost 8 years of continuous experimentation with different test methods and procedures and collaboration among all segments of the textile industry. As finally established, this standard was accepted by cotton and rayon manufacturing and converting groups representing at least 65 percent of the volume of business of this industry. There was no active valid opposition to this standard.

The flammability test provided in the Commercial Standard 191-53 makes use of strips of fabric 2 by 6 inches in dimensions. The test consists of measuring the burning time in seconds when the test piece is mounted in a specially designed apparatus and a flame is applied in a prescribed manner. Fabrics with a flame spread of more than 7 seconds are classed as having normal flammability. Those with a flame spread of less than 4 seconds are classed as rapid and intense burning, while those burning in 4 to 7 seconds are rated as having intermediate flammability. This bill is directed to those fabrics which are classed as rapid and intense burning fabrics.

Commercial Standard 191-53 states that this standard shall not apply to hats, gloves, and footwear. Notwithstanding this specific exception made in the Standard, this act would provide that this standard shall be applicable to the hats, gloves, and footwear defined in section 2 (d) of this act. Commercial Standard 192-53 makes no exception to hats, gloves, and footwear.

Commercial Standard 192-53 is the industry-approved standard with respect to vinyl plastic film. Such film is used in the manufacture of various articles of wearing apparel such as raincoats, capes, hoods, pants, and aprons. The flammability test, as prescribed in paragraph 3.11 of this standard, provides that the rate of burning of this film shall not exceed 1.2 inches per second as judged by the average of five determinations lengthwise and five determinations transverse to the direction of processing, when tested in accordance with the methods prescribed in that standard.

Section 4 provides further that if at any time the Secretary of Commerce finds that the commercial standards referred to above are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings, together with such proposals for legislation as he deems appropriate.

The committee intends that the Secretary of Commerce shall make continuous studies of the suitability and effectiveness of these and related test methods in providing adequate protection to the public from the hazards of flammability.

COMPARISON OF BILLS INTRODUCED IN 83D CONGRESS

As previously stated, in the present Congress, 5 bills, namely H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500, were introduced to prohibit the introduction or movement in interstate commerce of highly flammable articles of wearing apparel and fabrics. As a result of our hearings and after executive consideration of all these bills, I introduced, at the direction of the committee, H. R. 5069, the reported bill.

All six bills are identical in scope; they all seek to control commerce in highly flammable fabrics.

H. R. 389, by the gentleman from New Jersey [Mr. CANFIELD], is identical to the bill which passed the Senate last year, namely, S. 2918, 82d Congress. The bill which I introduced, H. R. 2768, is practically identical to S. 2918, the only difference being that the Senate approved bill provided for an exemption to exporters who shipped from the United States to any foreign country wearing apparel or fabric made in accordance with the specifications of the purchaser, while my bill makes no such exemption. H. R. 3851, H. R. 4159, and H. R. 4500 are identical bills. They were referred to during our hearings as the revised bills.

I should like to compare the provisions of my bill, H. R. 2768, with the revised bills and the reported bill, H. R. 5069. Sections 1, 2, 3, 5, 6, 7, 9, and 10 of all 6 bills are substantially identical. These sections are explained in the committee report on H. R. 5069 and I shall, therefore, not discuss these sections here. There are, however, substantial differences in the provisions of sections 4, 8, 11, and 12 of these bills. The essential differences in these sections are as follows:

1. STANDARDS OF FLAMMABILITY (SECTION 4)

All six bills provide in section 4 that commercial standard 191-53, promulgated by the Secretary of Commerce, effective January 30, 1953, shall be the test standard for determining the lawful or unlawful character of the flammability of clothing textiles under this act. However, my bill, H. R. 2768, authorizes and directs the Secretary of Commerce to establish test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate them. It also provides that the Secretary of Commerce shall not establish any test method, procedure, or standard for determining the rapid and intense burning of wearing apparel and fabrics unless, in his opinion,

such test method, procedure, and standard are adequate for the protection of the public interest.

The revised bills, H. R. 3851, H. R. 4159, and H. R. 4500, also authorize the Secretary of Commerce, when in his opinion the protection of the public so requires, to modify or supplement the test methods, procedures, and standards provided in this act by adopting any revision of or amendment to Commercial Standard 191-53, or any new applicable standard. However, the revised bills provide that any modification or supplementation of such test methods, procedures, and standards must be developed under the same procedures which were in effect and used in connection with the establishment of Commercial Standard 191-53. In effect, this means that the Secretary of Commerce may not modify or supplement such test method, procedure, and standard, even though he finds that the protection of the public interest requires it, unless he obtains written acceptances to the modifying or supplementing provisions from the industries concerned, representing at least 65 percent of the volume of business and with no active, valid opposition being registered. Such are the requirements, under presently existing procedures, for the establishment of commercial standards. Under the revised bills, therefore, the criterion of what is necessary for the proper protection of the public interest is limited and controlled by what the industry will consent to.

In a report to this committee on these bills, the Assistant Secretary of Commerce, Mr. Sheaffer, stated, in part:

The assent of a large segment of the affected industry is required before standards are placed in effect or modified under presently existing procedures. Where adherence to commercial standards is purely voluntary, this procedure is satisfactory. The required assent to modifications of the standards of flammability by a substantial number of the persons to be regulated by the proposed law raises a question of the constitutionality of the delegation of authority to establish modifications in the standard. The applicable law is not clear. In any event, the policy involved appears subject to question.

Mr. Henry Miller, Assistant General Counsel of the Federal Trade Commission, and Mr. Kenneth F. McClure, Assistant General Counsel for Domestic Affairs in the Department of Commerce elaborated on the constitutionality of this delegation of authority in a memorandum of law which they presented to the committee during our hearings on these bills.

H. R. 5069, the reported bill, adopts the standards of flammability prescribed in the commercial standards promulgated by the Secretary of Commerce, identified as Flammability of Clothing Textiles, Commercial Standard 191-53 and General Purpose Vinyl Plastic Film, Commercial Standard 192-53. The latter standard was not specifically mentioned in any of the five bills upon which hearings were held because it had not been promulgated upon to that time. Subsequent to the hearings it was promulgated by the Secretary, effective May 22, 1953.

The reported bill provides, in effect, that should any modification or supplementation of the test methods or procedures prescribed in these standards become necessary in the public interest, an amendment to this act would be required to make them effective. Thus, the objections voiced by the industry to the provision of section 4 of my original bill, H. R. 2768, which would have permitted the Secretary of Commerce, in his discretion, to establish and promulgate test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics, are nullified. At the same time, the questions raised on the constitutionality of the provisions in section 4 of the revised bills, are avoided.

The reported bill directs the Secretary of Commerce to report to the Congress any inadequacies in the commercial standards for the protection of the public interest, with recommendations for changes in such standards.

2. GUARANTY (SECTION 8)

All bills contain, in section 8, a guaranty provision. It is designed to relieve from the criminal penalties of this act retailers and other individuals who purchase articles of wearing apparel and fabrics, if they can establish a guaranty received in good faith from the seller of these goods to the effect that they are not dangerously flammable within the meaning of this act. This is a reasonable provision. The tens of thousands of retailers in this country should not be required to become testing experts and to evaluate the goods purchased. The guaranty, however, is voluntary. If a manufacturer does not wish to furnish the guaranty, the retailer has no protection unless he tests the goods himself.

The guaranty provision in my bill, H. R. 2768, provides, in effect, that a guaranty, if issued, would state that each article of wearing apparel and each yard of fabric is not so highly flammable as to be dangerous when worn by individuals. During our hearings testimony was received from many witnesses to the effect that manufacturers would be unable to furnish a guaranty. Obviously, each item of wearing apparel and each yard of fabric could not be tested. Yet, under the provisions of this bill the manufacturer is asked to guarantee something which he has not tested.

Section 8 of the revised bills provides that a manufacturer may furnish a guaranty to the effect that reasonable and representative tests have been made, under the provisions of the act, and that the specific type of fabric covered by the guaranty was found to be safe. This guaranty protects the retailer who receives goods with the understanding that they are safe. At the same time, the manufacturer is not relieved from the penalties of the act, if he sells or ships highly flammable material.

Section 8 (a) of the reported bill, H. R. 5069, provides that the criminal penalties provided for in section 7 of this act for a violation of section 3 of this act do not apply to any person who estab-

lishes a guaranty received in good faith to the effect that reasonable and representative tests made under the provisions of section 4 of this act, show that the fabric covered by the guaranty, or the article of wearing apparel made from that fabric is not so highly flammable as to be dangerous when worn by individuals. However, should the fabric or wearing apparel be found to be highly flammable, in spite of such guaranty, the Federal Trade Commission would have authority to proceed under the Federal Trade Commission Act as provided in section 3 of this bill, and under section 6 of this bill by initiating injunction and condemnation proceedings, where such proceedings are found to be necessary in the public interest.

The reported bill retains the provision contained in H. R. 2768 providing for a continuing guaranty. The revised bills do not contain specific provisions for a continuing guaranty.

Section 8 (b) of H. R. 2768, although eliminated in the revised bills, is retained in the reported bill, H. R. 5069. It contains the enforcement provisions against the issuance of a false guaranty. Any person who issues a false guaranty is guilty of an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of the Federal Trade Commission Act.

The Federal Trade Commission, under section 6 of this act, is authorized and directed to prescribe such rules and regulations as may be necessary and proper for the administration of this act. The Commission, also, is authorized to make inspections, tests, analyses, and examination of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this act. The Commission should utilize its general rule-making authority, including its trade practice conference procedure, to the extent applicable, for the purpose of aiding and guiding the industry in applying the requirements for making reasonable and representative tests under section 8 of this act.

3. EXPORTS (SECTION 11)

The revised bills provide for an exemption from the provisions of this act to any person who exports from the United States to any foreign country highly flammable wearing apparel or fabric made in accordance with the specifications of the purchaser. My bill, H. R. 2768, and the reported bill, H. R. 5069, do not provide for this exemption. The committee felt that our Government should not put itself in the position of saying that highly flammable goods shall not be sold in the United States because they are unfit for American consumers, but permit these goods to be sold for use by citizens of other countries.

4. EFFECTIVE DATE (SECTION 12)

The revised bills provide that this act shall take effect 1 year after the date of its enactment. H. R. 2768 provides for an effective date of 6 months after the date of enactment. The reported bill, H. R. 5069, provides for an effective date of 1 year after the date of enactment. Witnesses who appeared before

the committee testified that the industry will need 1 year's time to acquire testing equipment, and gain experience in evaluating fabric flammability.

CONCLUSION

Your committee believes that the inadequacy of present statutory powers to cope effectively with the urgent problem of protecting innocent and unsuspecting individuals from bodily injury and even death resulting from the use of wearing apparel, and fabrics used in wearing apparel, which are highly flammable makes the enactment of this legislation imperative.

Mr. Chairman, I trust this bill will have, and I believe it will, the unanimous support of the House because it does meet a situation that in the last few years has grown to considerable importance because of the number of catastrophes that have happened throughout the country especially to children and young women and others who have used garments that were dangerously flammable.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield.

Mr. GROSS. I call the gentleman's attention to section 9, on page 11, which is as follows:

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this act.

The question I should like to ask the gentleman is why there should not be a flat prohibition against the importation rather than the posting of a bond, which might permit him to continue the importation of flammable material.

Mr. WOLVERTON. Of course, the purpose of the committee in placing section 9 in the bill is what the gentleman has already indicated, namely, to preclude from coming into the country any fabrics that would be contrary to the formula describing a dangerous flammable fabric as stated in this bill. The provision for the posting of a bond applies only to individuals who have exported or attempted to export wearing apparel or fabrics in violation of this act. It would also give the importer the opportunity of availing himself of whatever statutes there may be or rules and regulations to determine whether the importation was in fact contrary to the formula that is fixed in the act. It in no way gives any privilege to him.

Mr. GROSS. Will the gentleman not agree that it does permit the exporter to ship into this country flammable material, if he is willing to put up a bond for double the amount of the product to be imported?

Mr. WOLVERTON. No, it does not mean that the fabric or article can move in interstate commerce. It could not move in interstate commerce. It does enable the importer who is alleged to have violated this act to have a determination of the question whether the material does violate the act. The import would be stopped at the port of entry, and when the importer makes bond, it enables him to have the question decided as to whether it does violate the formula.

Mr. GROSS. Then the product would be stopped at the port of entry into this country; in other words, it could not be distributed in this country if the Interstate Commission said that it could not be distributed?

Mr. WOLVERTON. That is my understanding; and the purpose of the committee.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Tennessee.

Mr. PRIEST. I believe the gentleman from Iowa said something inadvertently when he referred to the Interstate Commission. The enforcement of this act is under the Federal Trade Commission. Of course, the Federal Trade Commission, as the chairman has said, does not control exports and imports, but they may require that goods meet the test before they go into interstate commerce.

Mr. O'HARA of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Minnesota.

Mr. O'HARA of Minnesota. Let me say to my chairman that I think this is a splendid piece of legislation and in the public interest and in the public welfare. I do want to congratulate the gentleman from New Jersey and the other gentlemen who, over the years, have fought for this legislation, the gentleman from California [Mr. JOHNSON], the gentleman from New Jersey [Mr. CANFIELD], the gentleman from Mississippi [Mr. WILLIAMS], and the gentleman from New Jersey [Mr. WOLVERTON], on the fine, public-spirited efforts which they have given to this proposed legislation. Let me say that I know, as the committee members know, that a great deal of time has been spent working out the details of this legislation; first, in the public interest; and secondly, so that it would not be harmful to the industries themselves.

Mr. WOLVERTON. May I say in reply to the gentleman from Minnesota, that I think the admirable results that have been obtained have been obtained because of the very conscientious and able assistance that was given by members of the Committee on Interstate and Foreign Commerce.

Mr. JAVITS. Mr. Chairman, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from New York.

Mr. JAVITS. It is my understanding that the idea for this kind of legislation originated with the gentleman from New Jersey [Mr. CANFIELD]—I do not know about the other gentlemen—through a letter that he received from a constitu-

ent. I think that this should be noted very importantly, because a great many people write to their Congressmen, and often nothing happens. But, as I understand, here is a bill which, with the gentleman from New Jersey [Mr. CANFIELD], had its origin in a letter from a mother whose child had been seriously hurt in just such a situation as has been described. I think that should be noted.

I should like to join in congratulating the gentleman from New Jersey [Mr. CANFIELD], the chairman of the committee [Mr. WOLVERTON], and all these men who have done such a fine job on this bill.

(Mr. WOLVERTON asked and was given permission to revise and extend his remarks.)

Mr. WOLVERTON. I yield such time as he may desire to the gentleman from New Jersey [Mr. CANFIELD], who has done such important work and been so helpful in connection with this legislation.

(Mr. CANFIELD asked and was given permission to revise and extend his remarks.)

Mr. CANFIELD. Mr. Chairman, as a longtime supporter of this legislative effort, I approve the bill now before the House and hope it will have the unanimous support of the membership.

Mr. HAND. Mr. Chairman, will the gentleman yield?

Mr. CANFIELD. I yield to the gentleman from New Jersey.

Mr. HAND. Let me just add to the words that have already been generously said by others, with reference to my colleague from New Jersey, the chairman of the committee [Mr. WOLVERTON], and most especially I think the gentleman from New Jersey [Mr. CANFIELD], who have labored for 4 or 5 years on this bill.

I do not suppose that its benefits would have any more effect on the people of New Jersey than elsewhere. But there has been a great deal of talk about it in New Jersey. There was some real damage done in New Jersey. This is a step, and an important step, to rectify the dangers which have been faced.

It is supported entirely by the textile industry in the gentleman's district and, I may add, is completely supported among the Retail Merchants' Associations of our State, with many others.

I congratulate the gentleman from New Jersey, the chairman of the committee [Mr. WOLVERTON], and also the gentleman from New Jersey [Mr. CANFIELD] for their efforts in bringing this bill to the floor and getting it passed.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. KLEIN], a member of the committee.

Mr. KLEIN. Mr. Chairman, I shall not use all of that time, but I do want to take the time to ask the chairman of our committee 2 or 3 questions, the answers to which I believe should clarify the issues.

Am I correct, Mr. Chairman, in stating that the legislation which we now have under consideration was not intended to cover buttons which are affixed to garments which may be made of this flammable material?

Mr. WOLVERTON. That is true.

Mr. KLEIN. The reason I ask that question is because many manufacturers of buttons are somewhat confused as to whether their product is included in the prohibited category.

It is my impression—and I ask the gentleman if that is not the fact—that the reason buttons are not included is because there were no proper standards available with regard to flammability of buttons and that the standards of flammability provided for textile fabrics which are in the bill would not be appropriate to apply to entirely different substances such as the material of which buttons are made?

Mr. WOLVERTON. Yes; and not only that, but in addition there has been no evidence before the committee to indicate that there was any widespread or particular danger arising from the use of buttons, at least to the extent that applies to the use of fabrics of a highly dangerous character.

Mr. KLEIN. I thank the gentleman. I think that makes it very clear.

I might say, Mr. Chairman, that I, too, would like to compliment the chairman of the committee and the Members of the House who have sponsored this legislation, who testified before our committee, because this is a very important subject. Many, many parents throughout the country are alarmed at the number of accidents which resulted in children being burned to death in some cases, and seriously burned in others, due to the fact that they were wearing articles of clothing made of flammable materials. There was nothing that could be done by the Federal Trade Commission or any other agency unless they could prove criminal negligence, which was impossible in most cases. There is no other way of preventing the shipment of articles of clothing made of this type of material. This is a very forward-looking piece of legislation and I am certain that every Member of the House will vote for it.

(Mr. KLEIN asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I want to join my colleagues in supporting this legislation and commending it to the membership of the House. It is commendable legislation; it is needed legislation. Experience in the past few years, we are sorry to report, has been sad. Certain conditions arose that existing agencies did not have the authority to cope with and, therefore, this problem has come to us over a period of several years.

I think it might be interesting to note, Mr. Chairman, that as far back as the 79th Congress this was brought to the attention of our committee and the House. Legislation was proposed then and succeeding Congresses; lengthy hearings have been held, and the complications that developed made it necessary to take quite a long time in working out what we felt would be a satisfactory approach to the problem.

It will be recalled that in the 82d Congress hearings were held and a bill was

reported out of our committee. It was near the close of the session; there was some objection raised by certain of the industry and some Members of the House; consequently, we were unable to get the bill up for consideration in the few remaining days of that session. As I understand, the other body did report a bill which was passed in the Senate; and that, too, was presented to our Committee on Interstate and Foreign Commerce for consideration.

The question was brought to us by many Members of the House. As I recall, the gentleman from California [Mr. JOHNSON] took a very active part originally, and our colleague from New Jersey [Mr. CANFIELD], as has been stated, took a very active interest in the problem. This matter was presented by the industry. The industry was divided on the approach to the problem, and that made it rather complicated.

The complication was, due largely to the degree of flammability of any given fabric. The standard which had been adopted by the Department of Commerce—and incidentally that took a good long while to be worked out, but the standard which was finally agreed to was satisfactory generally to the industry and almost everyone concerned. We reached the point that the only question we had to resolve was in case there was need for adjustment of the standard to be applied, how should the adjustment be made? We had some very interesting witnesses before the committee who gave splendid testimony as to their position and what would be the effect of the various approaches. Some of the industry thought that should a readjustment of the standard be necessary it should be done after 65 percent of the industry approved it. Then there was the other viewpoint that the agency itself, the department itself, should have the authority to make the adjustment. We have tried to approach that problem in this bill adopting the present standard which has been approved and promulgated by the Department of Commerce, with the proviso that should the Secretary of Commerce decide there was need for changes the problem would be brought back to the Congress and the Congress would make the decision.

That is just about the problem we have before us. This legislation is in just about as good form as we can hope to get it at the present time; therefore I recommend it to the favorable consideration of the House.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. JOHNSON].

(Mr. JOHNSON asked and was given permission to revise and extend his remarks.)

Mr. JOHNSON. Mr. Chairman, I will start my discussion on this bill by first congratulating the chairman of the Interstate Commerce Committee and the committee for bringing us this bill. Also, I wish to congratulate them especially for the type of bill which they have presented to us here today.

The struggle for the protection of the public from the fire menace presented by

dangerously flammable fabrics has been before the Congress since the 79th Congress. I introduced two bills in that Congress in an effort to get the problem solved. I became interested in the problem through a suggestion from Walter P. Jones, the editor of the McClatchy newspapers. His interest stemmed from the fact that California had passed a law that aimed at solving the problem in that State. He felt, and so did I, that the problem was a national one. To effectively solve it, we must prevent fabrics which are dangerous because of their flammability to be shipped in Interstate Commerce.

When I first presented the bill I discussed the matter with Clarence Lea, the then chairman of the Interstate and Foreign Commerce Committee. He was a Member of the House of California. Mr. Lea took enough interest in the bill to designate one of his committee members, the gentleman from Tennessee [Mr. PRIEST] to be present in my office to observe a demonstration of a method of testing whether certain cloth was dangerous for human wear because of their flammability. Present at this test were Mr. Ingberg and also Miss Sandholzer who were the ones in charge of flammability problems at the Bureau of Standards. They had devised a standard which the bureau thought would accurately test whether or not certain cloth was dangerous, which was proposed to be used for human wearing apparel. Present were members of the industries; manufacturing cotton, wool, the synthetic fiber fabrics, and many other interesting individuals including retailers of cloths. These tests convinced us that there was a simple way to test whether cloth which was to be used for wearing apparel was, in fact, dangerous.

The general idea demonstrated at that hearing is the basic idea in the bill before us.

It is also very encouraging to note that the Retail Dry Goods Association of the United States is backing this legislation. This legislation provides for a test to be made by a Government agency to determine whether cloth which is to be used for wearing apparel is, in fact, dangerous. This is parallel with the idea in the Pure Food and Drug Act, wherein the Government determines, for instance, what type of meat is fit for sale for human consumption and what type is not. Furthermore, a provision of this bill, which is very good, is the one that provides that any change which may be proposed in the flammability test must receive the approval of Congress. The committee did not, by its bill, hand over to any Government agency the arbitrary authority to change the test as to what fabrics are safe. It reserves that right for the Congress. If a change is made, and it is reasonable, it should be aired before the Interstate Commerce Committee of the House or the Senate and their judgment should be reflected in an appropriate amendment to this bill in the form of a new test, which would insure the safety of fabrics to be used for clothes.

I do not think it is generally understood that the number of people who

have been injured or who have died from injuries from burns due to dangerous fabrics is large. There are no accurate statistics on the matter but that is largely due to the fact that our insurance companies in reporting injury and in paying claims for injuries or death due to burns usually give the nature of the injury as to whether a person is standing near a fireplace, or that they were ignited by standing too near an open gas range—things like that, but, very seldom, until recently, have they indicated that the real cause of the damage was the rapid burning capacity of the fabric which was worn by the individual. Literally hundreds of people have lost their life by injuries sustained by burns due to dangerous fabrics and undoubtedly thousands have been injured in a more or less serious degree due to dangerously flammable fabrics which they wore.

Since the 79th Congress we have continued to introduce bills to try to solve this problem. We had a very exhaustive hearing in one Congress but somehow we were unable to get a bill out of the committee. Finally, I almost gave up in despair but this year I again introduced a bill. The bill which the committee has written, for it is really their work, I consider exceptionally adapted to handling the problem in a simple and very conclusive fashion. It is pleasant to know that something in which I have been intensely interested and something which is a very constructive step will now be consummated, perhaps in this Congress. The other body passed a bill last year and undoubtedly when this bill is sent to the other side of the Capitol, it will receive very favorable reception and I trust it will become the law of the land.

I want to present one matter for thought to those who happen to be listening to what I have to say here today. This is only the beginning of the problem of danger from fire from various types of fabrics, including buttons. It is not generally known but there still are fabrics in homes, such as curtains and in some instances perhaps rugs, which are really dangerous. In the test which we made in 1945 I learned, much to my amazement, that some types of buttons are extremely dangerous. Several were ignited in our presence at that time. I have a very vivid recollection of the intensity with which they burned. If these buttons were on a lady's coat or on her waist and they should get started to burn, it might be almost impossible for the woman to get the clothes off from her body before she would be severely and perhaps fatally burned.

I have no current information but some years past, and I think perhaps still today, some of the toys which are used by children are very dangerous from the standpoint of flammability. I remember when my children were young, I heard a discussion by the State fire marshal of California which aroused my interest and shocked me when he explained how many of the toys that were sold in the open market were extremely dangerous. These should all be taken off the market, and I believe

that the people who handle them, especially the retail trade, are hoping that that will happen. The ones who get the brunt of the criticism as well as the expense of this type of injury are the retailers of America. They are the ones who sell it to the customer and who want the safety of the fabric or the buttons. They have no part in manufacturing it, and undoubtedly when they purchased it from the manufacturer or the wholesaler, they assumed that it was fit to wear and not dangerous. The result is that the customer looks to the retailer, the man who sold him the product. Many judgments have been recovered against retailers who are entirely innocent of any wrongdoing whatever. Be that as it may, I firmly believe that the manufacturers of fabrics of the United States are themselves anxious to find ways and means to manufacture things which will not be injurious to the persons that use them. Therefore, this bill is only the beginning of the crusade to make America safe against flammable fabrics, no matter what their form or what their use or where they may be. It is a happy day for me because of my interest going back to almost the beginning of my service in Congress, to find that a bill of this kind will now be passed and undoubtedly will become the law.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi [Mr. WILLIAMS].

Mr. WILLIAMS of Mississippi. Mr. Chairman, the fact that this legislation does not appear to be controversial—everyone seems to be agreed on it—does not necessarily mean, however, that the Committee on Interstate and Foreign Commerce merely gave perfunctory consideration to it.

Mr. WOLVERTON. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Mississippi. I will be delighted to yield to the gentleman from New Jersey.

Mr. WOLVERTON. I overlooked naming the gentleman from Mississippi [Mr. WILLIAMS] when I was making reference to those who had introduced legislation on this subject. I said that there were others. I had him in mind also, and I want to say at this time that he was very helpful in bringing this matter to the attention of the committee and assisting the committee in bringing about a satisfactory result.

Mr. WILLIAMS of Mississippi. I am very grateful to my chairman.

Mr. PRIEST. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Mississippi. I yield to the gentleman from Tennessee.

Mr. PRIEST. Just to follow up what the gentleman has said, I believe the very fact that there seems to be no great controversy over the legislation at present indicates how thoroughly the committee has worked out controversial elements that might have appeared before bringing it to the House, and to that I believe the gentleman will agree since he was so valuable in helping to work out some of these difficulties.

Mr. WILLIAMS of Mississippi. Except for his flattering reference to me, for which I am most grateful, of course,

the gentleman has stated what I had intended to say when I began, but in much clearer and finer language.

Mr. Chairman, we found when we began to consider this legislation, that there were several suggested approaches to the problem confronting us. We found that the industry was in disagreement originally as to the proper approach, and we found that there was some disagreement even among Government agencies that were to administer it. However, the committee did successfully work out these differences to the point where now we have legislation before us in which everybody seems to be agreed and in harmony with.

Mr. Chairman, I see no reason for belaboring the House further with a detailed discussion of this legislation. It has been very ably explained by my distinguished chairman and other members of the committee. I assume that this legislation will pass unanimously, and if we can get them to take it up in the other body, it should become law soon.

I do want to congratulate the chairman of my committee on the splendid manner in which he handled this highly technical, and at one time, controversial piece of legislation. I think he has done a masterful job and I congratulate him and the members of his committee for a job well done.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Massachusetts [Mr. HESELTON].

(Mr. HESELTON asked and was given permission to revise and extend his remarks.)

Mr. HESELTON. Mr. Chairman, this bill in its present form is a very real tribute to the cooperative efforts on the part of responsible representatives of the industries concerned, Government officials, of the House Committee on Interstate and Foreign Commerce, its staff, and the staff of the legislative counsel. This is attested to by the fact that the House committee was unanimous in reporting the final version. That unanimity should, and I am confident will, justify unanimous action of the House in approving the bill.

There is one phase of the bill which I believe deserves some emphasis because of its importance. In a letter dated April 15, 1953, addressed to the chairman of the committee, Assistant Secretary of Commerce C. R. Shaeffer wrote, in part:

We wish to invite your attention to the fact that H. R. 4159 and H. R. 3851 provide that the standard of flammability shall be the commercial standard now in effect, and any modification thereof shall be made in accordance with presently existing procedures for the development of commercial standards.

The assent of a large segment of the affected industry is required before standards are placed in effect or modified under presently existing procedures. Where adherence to commercial standards is purely voluntary, this procedure is satisfactory. The required assent to modifications of the standards of flammability by a substantial number of the persons to be regulated by the proposed law raises a question of the constitutionality of the delegation of authority to establish modifications in the standard.

The applicable law is not clear. In any event, the policy involved appears subject to question.

An examination of the hearings will indicate that this expression of concern as to constitutionality led members of the committee to examine witnesses closely on the point. As a result, the committee reached a definite policy decision and refused to approve of the procedure originally suggested of permitting future modifications of the standards now in effect, solely under the presently existing procedures for the development of commercial standards. While it was demonstrated to the satisfaction of the committee that commercial standards 191-53, prescribing the standard for flammability of clothing textiles and 192-53, prescribing the standard of flammability of vinyl plastic film had been developed in an entirely satisfactory manner, it will be clear from a wording of section 4 that the committee was firm in its insistence that, should these standards be found by the Secretary of Commerce to be inadequate for the protection of the public interest, he must submit a report to the Congress setting forth his finding, together with such proposals for legislation as he may deem to be appropriate. I believe it may well become a matter of importance, in terms of the legislative history of this legislation, to make it clear beyond any question that the committee was keenly conscious of the significance of the original proposal of delegation of authority to a segment of the industry affected by the legislation and that it has consciously and deliberately declined to accept that suggestion because of its convictions as to the unconstitutionality of any such delegation. I am equally certain that the industry and the public can and will be completely protected by the continuous studies which the committee expects the Secretary of Commerce to make of the suitability and effectiveness of the test methods provided in these standards, and related test methods, together with the specific authority and duty on the part of the Secretary to report to the Congress whenever he finds any inadequacy has developed in the application of these standards. I know that the committee and Congress will be ready always to do whatever may become necessary to improve upon and perfect any procedures in the important field so as to promote the public welfare or to insure a greater degree of safety. However, the committee has also demonstrated its consciousness of its own responsibility to insure that any procedures or methods it recommends to the House meet the requirements of the Constitution. In that way only can the public welfare be best guaranteed.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SCHENCK].

Mr. SCHENCK. Mr. Chairman, it is a very real privilege and pleasure for me to be associated with the Committee on Interstate and Foreign Commerce for the first time this year. This committee has done a magnificent job un-

der the very capable leadership of our distinguished chairman, the gentleman from New Jersey [Mr. WOLVERTON], and the members of the committee have been most earnest, sincere, and dedicated to doing this kind of a job. I say this for both the majority and the minority members of the committee. I have not seen anywhere a greater degree of dedication to the real service of the country than has been the case by the members of this committee.

This particular piece of legislation could easily have become bogged down in a maze of controversial things, but the fine work of the members of the committee prevented that, and the legislation which has been brought out has been brought out only after the most careful consideration.

In two instances I asked two different chiefs of fire departments in my district if they would like to comment on this legislation. I call attention of the Members of the House to their letters which are inserted in the hearings on this bill on pages 196 and 197 in which these two chiefs of fire departments recommended that this type of legislation be passed unanimously and quickly and gave reasons why it was most important.

(Mr. SCHENCK asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, we do not have any further requests for time on this side.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may require to the gentleman from Minnesota [Mr. O'HARA].

(Mr. O'HARA of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. O'HARA of Minnesota. Mr. Chairman, I think the legislation now before us is a good example of the kind of work that the Committee on Interstate and Foreign Commerce has to deal with in its deliberations as a committee of this House. Out of that committee came the first wool labeling bill many years ago. At that time the legislation was highly controversial. Since then it has had the very strong support of both the public and the industries that might be affected thereby. I had the privilege and honor of being the author of the fur labeling bill. It took some 5 years of legislative work and hearings before that bill finally became law. Having some personal experience and interest in that legislation, let me say that oftentimes it does make for better legislation if it does take a little time before a bill becomes law because generally speaking the conflicts and mistakes which might be made without extensive hearings are avoided or resolved as a result of extensive consideration and hearings. As has been so well pointed out by my colleagues, the present legislation is unquestionably a much better piece of legislation as a result of the consideration which has been given to it by the committee and by the industry and by the departments of Government affected in its administration. As a result, we have before us legislation which I think has been carefully

considered, and frankly considered from a practical viewpoint. If it is administered, and I have every confidence that it will be fairly administered by the Federal Trade Commission, we will have a law upon the books that will be of great benefit to the public and which, I think, will have the uniform cooperation and support of the industries affected as well as the hearty approval of the public.

Mr. Chairman, I wish to compliment again those who have spent a great deal of time upon this legislation, and to congratulate them on the fine result which has been obtained.

Mr. Chairman, I yield back the remainder of my time.

Mr. CANFIELD. Mr. Chairman, every day of the year thousands of women and children through this land are courting serious painful injury and death simply because, quite unwittingly, they are wearing clothing made of highly flammable fabrics. It is high time that we take the simple and effective action that is needed to keep such potentially dangerous fabrics from being manufactured and off the retailers' shelves.

In the May, 1953, issue of the *Woman's Home Companion*, Paul W. Kearney has a lead article, captioned "Are You Dressed to Kill?" The first few paragraphs read as follows:

Right now—at the moment you are reading this sentence—thousands of women and children throughout this country are dressed to kill.

Blithely unaware of their danger, they go about their daily work and play wearing highly flammable clothes which can kill or maim them literally in a flash. Death or disfigurement is only as far away from them as the nearest spark. And the distressing fact is that they have no way of recognizing the hazard until too late.

Consider my young friend, whom I'll call Alice Eames. Alice, at the age of 11, has lost 1 year of life. She spent those 12 dreary months lying on her stomach in a hospital bed while skilled surgeons gave her more than 9,000 pinprick skin grafts. She had 35 blood transfusions and lost 40 percent of her weight. Her body will never again be pretty but the surgeons did an amazing job on her face.

Why did Alice have to spend that tortured year in a hospital? Because a year and a half ago her Halloween costume exploded on her back when a boy putting a candle into a hollowed-out pumpkin accidentally brushed it against her.

Three times Congressman GORDON CANFIELD, of New Jersey, has introduced measures seeking to establish national standards which would ban the sale of hazardous wearing apparel and fabrics. No one has ever opposed them. The important textile interests wholeheartedly endorse the idea. Yet each time the bill has died in committee, yesed to death.

It is, I may add, a problem that has long been with us, and that becomes less and less excusable with every passing day. Twenty-eight years ago at a Christmas party, in a 1-room schoolhouse near Hobart, Okla., 36 persons died because a Santa Claus mask caught fire from a candle, ignited the costume, which in turn touched off the Christmas tree. Many of you remember the epidemic of flash fires of cowboy suits about 1945. In Washington, D. C., alone, 6 little boys were burned to death and 7 others se-

verely burned while wearing cowboy outfits with fleecy highly flammable chaps. A little more than a year ago at least 20 people were burned by torch sweaters that were consumed in 20 to 40 seconds after contact with a match flame. The danger continues. Thousands of costumes, masks, sweaters, and dresses may, if touched by a careless spark, burst into flame. It is impossible for the layman to recognize a highly flammable material until it is too late. But it is not impossible for something to be done to protect the consumer from unknowingly acquiring such hazardous apparel.

Thus far, we must be candid, very little has been done. Only a single State, California, has enacted legislation to protect consumers against the hazard of these flammable textiles. In California there is a law making illegal the manufacture or sale of wearing apparel made with fibers which constitute a dangerous risk of fire and hazard of injury. The question of determining what fabrics are dangerously inflammable has been left in the California state legislation to the State fire marshal. There the marshal has defined as dangerous a garment or fabric which, first, burns at a rate faster than 5 inches in 6 seconds; or, second, ignites within 5 seconds in a specially designed test cabinet. Other special testing apparatus has been perfected to measure burning and ignition rates and elaborate precautions have been taken to make the tests impartial and scientifically sound.

Representatives of cotton and rayon producers, fabric manufacturers, finishers, converters, wholesalers, retailers, and consumers have been working to develop a commercial standard for flammability of clothing textiles, under the coordination of the American Association of Textile Chemists and Colorists and the National Retail Dry Goods Association. They would much prefer a single Federal law utilizing a single standard for flammability than have each State enact a different law with different standards.

Just as we have enacted legislation to protect American consumers from adulterated and dangerous foods and drugs, we can and should without further delay pass a bill protecting our wives and sons and daughters from the danger of flammable materials. I have introduced legislation in the 80th Congress, in the 82d Congress, and again in this Congress to prohibit the interstate shipment and sale of materials so flammable as to be dangerous to the wearer.

The bill now before us and introduced in the name of the committee chairman, the distinguished gentleman from New Jersey [Mr. WOLVERTON], like mine, vests enforcement in the Federal Trade Commission and prescribes the standards of flammability: Commercial Standard 191-53, promulgated by the Secretary of Commerce, effective January 30, 1953, for clothing and textiles; and Commercial Standard 192-53, promulgated by the Secretary of Commerce, effective May 22, 1953, for vinyl plastic film.

Legislation of this character is supported by the Federal Trade Commission, the National Cotton Council of America, the National Retail Dry Goods

Association, the Tufted Textile Manufacturers Association, the Society of Plastics Industry, Inc., the Rayon and Acetate Fiber Producers, and others.

I am proud to say that the great majority of manufacturers and retailers are heartily in favor of preventing dangerously flammable textiles from being sold to an unsuspecting public. Recently, when fire inspectors showed one manufacturer of "torch" sweaters what he had in stock, he set fire to \$30,000 worth of the sweaters in a vacant lot. Responsible retailers likewise generally are alert to screening out dangerous articles submitted by manufacturers who may themselves be ignorant of the hazards they are promoting. This legislation like that I have sponsored would protect these retailers and manufacturers as well as the public.

This is certainly a nonpartisan measure which can be passed quickly without any prolonged debate. It has the backing of the important textile manufacturing and retailing interests. Its sole purpose is to protect American women and children from innocently exposing themselves to the danger of death or horrible disfigurement. It is a piece of legislation that is long overdue. It should be passed without further delay.

In closing, I would like to read a telegram I received from a constituent under date of January 8, 1947:

HON. GORDON CANFIELD,
House of Representatives,
Washington, D. C.:

We lost our little boy last June through one of the cowboy suits that you are trying to outlaw. We thank you for your efforts to spare other parents the pain that we endured. If I can do anything in any way to further the bill please let me know.

IRVING SUKINK,
Passaic, N. J.

Do we have to wait longer?

Mr. FINE. Mr. Chairman, I have been asked by several of my constituents interested in H. R. 5069, entitled "The Flammable Act," to make inquiry as to whether or not this bill does include, or is intended to include, buttons on garments or wearing apparel. In response to such correspondence, I made inquiry of the chairman, and during the debate the gentleman from New York, Congressman KLEIN, a member of the Committee on Interstate and Foreign Commerce, propounded several questions to clarify the point. I myself have received a written communication from the chairman to the effect that the committee did not accept an amendment to include buttons within the purview of the bill. I append herewith the letter from the chairman, dated June 3, 1953:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE,
Washington, D. C., June 3, 1953.
HON. SIDNEY A. FINE,
Member of Congress,
House Office Building,
Washington, D. C.

DEAR COLLEAGUE: Reference is made to your letter of June 1, 1953, inquiring whether buttons on wearing apparel are included in the provisions of H. R. 5069, a bill to prohibit the introduction or movement in interstate

commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The provisions of this bill are limited to articles of wearing apparel and fabrics. These terms are defined in the bill as follows:

"(d) The term 'article of wearing apparel' means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than 14 inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

"(e) The term 'fabric' means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this act."

During our hearings on this legislation Mr. W. P. Fickett, representing the National Association of Button Manufacturers, appeared before the committee and urged that this legislation be amended to include buttons as well as fabrics and wearing apparel. The committee did not adopt his amendment.

You will find Mr. Fickett's testimony beginning with page 182 of our hearings on this legislation. A copy each of the hearings and H. R. 5069 are enclosed.

Sincerely yours,

CHARLES A. WOLVERTON,
Chairman.

Mr. WOLVERTON. Mr. Chairman, I have no further requests for time on this side.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc.—

SHORT TITLE

SECTION 1. This act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

SEC. 2. As used in this act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than 14 inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from

or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the act of Congress entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53" or in the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together

with such proposals for legislation as he deems appropriate.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this act in the same manner, by the same means and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this act; and any such person violating any provision of section 3 of this act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this act; and

(2) cooperate on matters related to the purposes of this act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases cov-

ered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than 1 year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this act for a violation of section 3 of this act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this act or the application thereof to any person or circumstances is held invalid the remainder of the act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This act shall take effect 1 year after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.

Mr. WOLVERTON (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read as follows:

Committee amendment: On page 5, line 3, strike out the word "in" and insert in lieu thereof the following: "exhibits a rate of burning in excess of that specified in paragraph 311 of."

Mr. WOLVERTON. Mr. Chairman, the amendment which has just been read makes no change in policy or in substance so far as the bill is concerned. It is merely for the purpose of supplying language to make a correct reference to the flammability standards in commercial standard 192-53 identified as general purpose vinyl plastic.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. WOLVERTON].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SADLAK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes, pursuant to House Resolution 250, he reported the same back to the House, with an amendment adopted in Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The bill was passed, and a motion to reconsider was laid on the table.

Mr. WOLVERTON. Mr. Speaker, I ask unanimous consent that all Members may have the privilege of inserting their remarks in the Record at that point in the general debate.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. WOLVERTON. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file its report on the bill H. R. 3203, and that the gentleman from New York [Mr. KLEIN], representing the minority, may have a similar privilege to file a minority report.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INTERNATIONAL MATERIALS CONFERENCE

The SPEAKER. Under special order heretofore entered, the gentleman from Connecticut [Mr. SADLAK] is recognized for 30 minutes.

(Mr. SADLAK asked and was given permission to revise and extend his remarks.)

Mr. SADLAK. Mr. Speaker, about a year ago this body clearly expressed its will with respect to continued United States participation in the International Materials Conference. While the Defense Production Act was under consideration the House adopted by teller vote

H. R. 5069

Read twice and referred to the Committee on Interstate and Foreign Commerce

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the “Flammable
5 Fabrics Act”.

6 DEFINITIONS

7 SEC. 2. As used in this Act—

8 (a) The term "person" means an individual, partner-
9 ship, corporation, association, or any other form of business
10 enterprise.

1 (b) The term "commerce" means commerce among the
2 several States or with foreign nations, or in any Territory of
3 the United States or in the District of Columbia, or between
4 any such Territory and another, or between any such Terri-
5 tory and any State or foreign nation, or between the District
6 of Columbia and any State or Territory or foreign nation.

7 (c) The term "Territory" includes the insular posses-
8 sions of the United States and also any Territory of the
9 United States.

10 (d) The term "article of wearing apparel" means any
11 costume or article of clothing worn or intended to be worn
12 by individuals except hats, gloves, and footwear: *Provided*,
13 *however*, That such hats do not constitute or form part
14 of a covering for the neck, face, or shoulders when worn
15 by individuals: *Provided further*, That such gloves are not
16 more than fourteen inches in length and are not affixed to or
17 do not form an integral part of another garment: *And pro-*
18 *vided further*, That such footwear does not consist of hosiery
19 in whole or in part and is not affixed to or does not form
20 an integral part of another garment.

21 (e) The term "fabric" means any material (other than
22 fiber, filament, or yarn) woven, knitted, felted, or other-
23 wise produced from or in combination with any natural
24 or synthetic fiber, film, or substitute therefor which is in-
25 tended or sold for use in wearing apparel except that in-

1 terlining fabrics when intended or sold for use in wear-
2 ing apparel shall not be subject to this Act.

3 (f) The term "interlining" means any fabric which is
4 intended for incorporation into an article of wearing apparel
5 as a layer between an outer shell and an inner lining.

6 (g) The term "Commission" means the Federal Trade
7 Commission.

8 (h) The term "Federal Trade Commission Act" means
9 the Act of Congress entitled "An Act to create a Federal
10 Trade Commission, to define its powers and duties, and
11 for other purposes", approved September 26, 1914, as
12 amended.

13 PROHIBITED TRANSACTIONS

14 SEC. 3. (a) The manufacture for sale, the sale,
15 or the offering for sale, in commerce, or the importa-
16 tion into the United States, or the introduction, deliv-
17 ery for introduction, transportation or causing to be
18 transported in commerce or for the purpose of sale or de-
19 livery after sale in commerce, of any article of wearing
20 apparel which under the provisions of section 4 of this Act
21 is so highly flammable as to be dangerous when worn by
22 individuals, shall be unlawful and shall be an unfair method
23 of competition and an unfair and deceptive act or practice
24 in commerce under the Federal Trade Commission Act.

25 (b) The sale or the offering for sale, in commerce, or the

1 importation into the United States, or the introduction, de-
2 livery for introduction, transportation or causing to be trans-
3 ported in commerce or for the purpose of sale or delivery
4 after sale in commerce, of any fabric which under the pro-
5 visions of section 4 of this Act is so highly flammable as to
6 be dangerous when worn by individuals, shall be unlawful
7 and shall be an unfair method of competition and an unfair
8 and deceptive act or practice in commerce under the Federal
9 Trade Commission Act.

10 (c) The manufacture for sale, the sale, or the offering
11 for sale, of any article of wearing apparel made of
12 fabric which under section 4 is so highly flammable
13 as to be dangerous when worn by individuals and which has
14 been shipped or received in commerce shall be unlawful
15 and shall be an unfair method of competition and an unfair
16 and deceptive act or practice in commerce under the Federal
17 Trade Commission Act.

18 STANDARD OF FLAMMABILITY

19 SEC. 4. (a) Any fabric or article of wearing apparel
20 shall be deemed so highly flammable within the meaning
21 of section 3 of this Act as to be dangerous when worn by
22 individuals if such fabric or any uncovered or exposed part
23 of such article of wearing apparel exhibits rapid and intense
24 burning when tested under the conditions and in the manner
25 prescribed in the Commercial Standard promulgated by the

1 Secretary of Commerce effective January 30, 1953, and
2 identified as "Flammability of Clothing Textiles, Commercial
3 Standard 191-53", or exhibits a rate of burning in excess of
4 that specified in paragraph 3.11 of the Commercial Standard
5 promulgated by the Secretary of Commerce effective May 22,
6 1953, and identified as "General Purpose Vinyl Plastic
7 Film, Commercial Standard 192-53". For the purposes of
8 this Act, such Commercial Standard 191-53 shall apply
9 with respect to the hats, gloves, and footwear covered by
10 section 2 (d) of this Act, notwithstanding any exception
11 contained in such Commercial Standard with respect to hats,
12 gloves, and footwear.

13 (b) If at any time the Secretary of Commerce finds that
14 the Commercial Standards referred to in subsection (a) of
15 this section are inadequate for the protection of the public
16 interest, he shall submit to the Congress a report setting forth
17 his findings together with such proposals for legislation as he
18 deems appropriate.

19 ADMINISTRATION AND ENFORCEMENT

20 SEC. 5. (a) Except as otherwise specifically provided
21 herein, sections 3, 5, 6, and 8 (b) of this Act shall be en-
22 forced by the Commission under rules, regulations and pro-
23 cedures provided for in the Federal Trade Commission Act.

24 (b) The Commission is authorized and directed to pre-
25 vent any person from violating the provisions of section 3

1 of this Act in the same manner, by the same means and with
2 the same jurisdiction, powers and duties as though all appli-
3 cable terms and provisions of the Federal Trade Commission
4 Act were incorporated into and made a part of this Act;
5 and any such person violating any provision of section 3 of
6 this Act shall be subject to the penalties and entitled to the
7 privileges and immunities provided in said Federal Trade
8 Commission Act as though the applicable terms and provi-
9 sions of the said Federal Trade Commission Act were incor-
10 porated into and made a part of this Act.

11 (c) The Commission is authorized and directed to pre-
12 scribe such rules and regulations as may be necessary and
13 proper for purposes of administration and enforcement of
14 this Act.

15 (d) The Commission is authorized to—

16 (1) cause inspections, analyses, tests, and exami-
17 nations to be made of any article of wearing apparel
18 or fabric which it has reason to believe falls within the
19 prohibitions of this Act; and

20 (2) cooperate on matters related to the purposes
21 of this Act with any department or agency of the Gov-
22 ernment; with any State, Territory, or possession or
23 with the District of Columbia; or with any department,
24 agency, or political subdivision thereof; or with any
25 person.

1 INJUNCTION AND CONDEMNATION PROCEEDINGS

2 SEC. 6. (a) Whenever the Commission has reason to
3 believe that any person is violating or is about to violate
4 section 3 of this Act, and that it would be in the public
5 interest to enjoin such violation until complaint under the
6 Federal Trade Commission Act is issued and dismissed by
7 the Commission or until order to cease and desist made
8 thereon by the Commission has become final within the
9 meaning of the Federal Trade Commission Act or is set
10 aside by the court on review, the Commission may bring suit
11 in the district court of the United States or in United States
12 court of any Territory for the district or Territory in which
13 such person resides or transacts business, to enjoin such vio-
14 lation and upon proper showing a temporary injunction or
15 restraining order shall be granted without bond.

16 (b) Whenever the Commission has reason to believe
17 that any article of wearing apparel has been manufactured
18 or introduced into commerce or any fabric has been intro-
19 duced in commerce in violation of section 3 of this Act, it
20 may institute proceedings by process of libel for the seizure
21 and confiscation of such article of wearing apparel or fabric
22 in any district court of the United States within the jurisdic-
23 tion of which such article of wearing apparel or fabric is
24 found. Proceedings in cases instituted under the authority of

1 this section shall conform as nearly as may be to proceedings
2 in rem in admiralty, except that on demand of either party
3 and in the discretion of the court, any issue of fact shall be
4 tried by jury. Whenever such proceedings involving identi-
5 cal articles of wearing apparel or fabrics are pending in two or
6 more jurisdictions, they may be consolidated for trial by order
7 of any such court upon application seasonably made by any
8 party in interest upon notice to all other parties in interest.
9 Any court granting an order of consolidation shall cause
10 prompt notification thereof to be given to other courts hav-
11 ing jurisdiction in the cases covered thereby and the clerks
12 of such other courts shall transmit all pertinent records and
13 papers to the court designated for the trial of such consoli-
14 dated proceedings.

15 (c) In any such action the court upon application
16 seasonably made before trial shall by order allow any party
17 in interest, his attorney or agent, to obtain a representative
18 sample of the article of wearing apparel or fabric seized.

19 (d) If such articles of wearing apparel or fabrics are
20 condemned by the court they shall be disposed of by destruc-
21 tion, by delivery to the owner or claimant thereof upon pay-
22 ment of court costs and fees and storage and other proper
23 expenses and upon execution of good and sufficient bond to
24 the effect that such articles of wearing apparel or fabrics will
25 not be disposed of for wearing apparel purposes until prop-

1 erly and adequately treated or processed so as to render them
2 lawful for introduction into commerce, or by sale upon execu-
3 tion of good and sufficient bond to the effect that such articles
4 of wearing apparel or fabrics will not be disposed of for
5 wearing apparel purposes until properly and adequately
6 treated or processed so as to render them lawful for intro-
7 duction into commerce. If such products are disposed of by
8 sale the proceeds, less costs and charges, shall be paid into
9 the Treasury of the United States.

10 PENALTIES

11 SEC. 7. Any person who willfully violates section 3 or 8
12 (b) of this Act shall be guilty of a misdemeanor, and upon
13 conviction thereof shall be fined not more than \$5,000 or be
14 imprisoned not more than one year or both in the discretion
15 of the court: *Provided*, That nothing herein shall limit other
16 provisions of this Act.

17 GUARANTY

18 SEC. 8. (a) No person shall be subject to prosecution
19 under section 7 of this Act for a violation of section 3 of this
20 Act if such person (1) establishes a guaranty received in
21 good faith signed by and containing the name and address
22 of the person by whom the wearing apparel or fabric guar-
23 anteed was manufactured or from whom it was received,
24 to the effect that reasonable and representative tests made
25 under the procedures provided in section 4 of this Act show

1 that the fabric covered by the guaranty, or used in the wearing
2 apparel covered by the guaranty, is not, under the provisions
3 of section 4 of this Act, so highly flammable as to be danger-
4 ous when worn by individuals, and (2) has not, by further
5 processing, affected the flammability of the fabric or wearing
6 apparel covered by the guaranty which he received. Such
7 guaranty shall be either (1) a separate guaranty specifically
8 designating the wearing apparel or fabric guaranteed, in
9 which case it may be on the invoice or other paper relating
10 to such wearing apparel or fabric; or (2) a continuing
11 guaranty filed with the Commission applicable to any wear-
12 ing apparel or fabric handled by a guarantor, in such form
13 as the Commission by rules or regulations may prescribe.

14 (b) It shall be unlawful for any person to furnish, with
15 respect to any wearing apparel or fabric, a false guaranty
16 (except a person relying upon a guaranty to the same effect
17 received in good faith signed by and containing the name and
18 address of the person by whom the wearing apparel or fabric
19 guaranteed was manufactured or from whom it was received)
20 with reason to believe the wearing apparel or fabric falsely
21 guaranteed may be introduced, sold, or transported in com-
22 merce, and any person who violates the provisions of this
23 subsection is guilty of an unfair method of competition, and
24 an unfair or deceptive act or practice, in commerce within
25 the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the

1 ordinary course of its business; or (b) to any converter, proc-
2 essor, or finisher in performing a contract or commission serv-
3 ice for the account of a person subject to the provisions
4 of this Act: *Provided*, That said converter, processor, or
5 finisher does not cause any article of wearing apparel or
6 fabric to become subject to this Act contrary to the terms
7 of the contract or commission service; or (c) to any article
8 of wearing apparel or fabric shipped or delivered for ship-
9 ment into commerce for the purpose of finishing or proc-
10 essing to render such article or fabric not so highly flam-
11 mable, under the provisions of section 4 of this Act, as to be
12 dangerous when worn by individuals.

13

EFFECTIVE DATE

14

SEC. 12. This Act shall take effect one year after the
15 date of its passage.

16

AUTHORIZATION OF NECESSARY APPROPRIATIONS

17

SEC. 13. There is hereby authorized to be appropriated
18 such sums as may be necessary to carry out the provisions
19 of this Act.

Passed the House of Representatives June 3, 1953.

Attest:

LYLE O. SNADER,

Clerk.

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

JUNE 4 (legislative day, MAY 28), 1953

Read twice and referred to the Committee on
Interstate and Foreign Commerce

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

June 11, 1953
June 10, 1953
83rd-1st, No. 106

CONTENTS

Agri'l Adjustment Act.....23,35	Housing.....4	Roads.....2,27,38
Appropriations.....2,40,41	Interest rates.....4,14	R.E.A. loans.....2,10
Conservation.....22	Lands, grazing.....20	Small business.....5
Disaster relief.....40	Livestock.....12,21,28	Sugar.....6
Economic controls.....1	Marketing quotas.....2	Textile industry.....7
Farm storage.....39	Nomination.....8	Trade, foreign.....6,16
Flammable fabrics.....9	Packaging.....17	Treaties.....11
Foreign aid.....15,37	Patents.....30	Veterans' benefits.....19
Government operations.....24	Prices, support.....37	Water.....29,31
Hawaii statehood.....23	Reclamation.....3,32	Wheat.....2,18,33,34,37

HIGHLIGHTS: Both Houses received President's message recommending shipment of surplus wheat to Pakistan. House Rules Committee cleared trade agreements extension bill. Senate completed final congressional action on 3rd supplemental appropriation bill. Sen. Aiken introduced bill amending wheat marketing law. Sen. Humphrey introduced and discussed bill to increase carryover and acreage allotments for corn and wheat. Sen. Aiken, and Reps. Hope, et al, introduced bills to transfer surplus wheat to Pakistan. Rep. Hagen, et al, introduced bills establishing 3-year base for determining cotton quotas, and Rep. Hagen discussed these bills. Sen. Morse introduced and discussed measure to provide timber access roads. Senate conferees were appointed on economic controls bill. Senate debated Treasury-Post Office appropriation bill.

SENATE

1. ECONOMIC CONTROLS. Sens. Capehart, Bricker, Bennett, Bush, Maybank, Fulbright, and Robertson were appointed as conferees on S. 1081, authorizing temporary economic controls (p. 6531-35). House conferees have not yet been appointed.
2. APPROPRIATIONS. Adopted the conference report on H.R. 4664, third supplemental appropriation bill for 1953 (p. 6539). This bill will now be sent to the President. The bill includes the following items for this Department: \$3,150,000 (to be derived by transfer from any other appropriations available to the Department) to begin formulation of acreage-allotment and marketing-quota programs on wheat and cotton; \$5,000,000 for construction of timber access roads to permit removal of insect-infested and insect-killed trees in Montana and Idaho; and \$7,500,000 for the rural telephone loan program.
Began debate on H.R. 5174, Treasury-Post Office appropriation bill for 1954 (pp. 6539-40, 6542-46, 6549-51, 6554).
3. RECLAMATION. The Interior and Insular Affairs Committee reported without amendment S. 2097, to increase to \$33 million the authorization for construction of the Eklutna Project, Alaska (S. Rept. 383) (pp. 6497-98).
Received an Oklahoma Legislature resolution requesting that gas-production companies in the Guymon-Hugoton field be permitted to deliver natural gas to irrigation farmers in the area to help alleviate drought without being classified as a utility company (p. 6491).
4. HOUSING. The Banking and Currency Committee reported with amendments S. 1993, to amend the National Housing Act and the Servicemen's Readjustment Act of 1944 with respect to maximum interest rates (S. Rept. 386) (p. 6495).

5. **SMALL BUSINESS.** The Rules and Administration Committee reported a resolution increasing the limit of expenditures for the Select Committee on Small Business (p. 6495).
 6. **SUGAR; FOREIGN TRADE.** Received the treaty, dated Aug. 31, 1952, prolonging the international agreement regarding regulation and marketing of sugar, signed at London, May 6, 1937 (Ex. L, 83d Cong.) (p. 6554).
 7. **TEXTILE INDUSTRY.** Sen. Maybank spoke on the rising economic position of the South, emphasizing the growth and development of the textile industry there (pp. 6535-39).
 8. **NOMINATION of Nelson Aldrich Rockefeller as Under Secretary of Health, Education, and Welfare** was confirmed (p. 6556).
 9. **FLAMMABLE FABRICS.** The Interstate and Foreign Commerce Committee ordered reported (but did not actually report) without amendment H.R. 5069, to prohibit the movement in interstate commerce of highly flammable fabrics (p. D535).
 10. **ELECTRIFICATION.** Received an amendment to the agricultural appropriation bill submitted by Sen. Young to increase to 20% the amount of money which may be allocated to a State from the REA contingency fund for rural electrification (p. 6490).
 11. **TREATIES.** Sen. Brieker inserted two resolutions and an editorial in favor of his proposed constitutional amendment to limit the treaty-making power (pp. 6491-92).
 12. **CATTLE INDUSTRY.** Sen. Thye inserted an American National Cattlemen's Association memorial to Congress and the Secretary setting forth the proposals by which the cattle industry is attempting to find a solution to its problems (pp. 6493-94).
 13. **EXPENDITURES.** Sen. Schoeppel inserted a Wichita Manufacturers' Club resolution urging Congress to eliminate wasteful operations and unnecessary spending, and to reduce the size and activities of the Federal Government (p. 6494).
 14. **INTEREST RATES.** Sens. Humphrey, Morse, Maybank, Goldwater, and others, discussed recent increased interest rates, and Sen. Humphrey recommended a congressional investigation on the effects of this new policy on our economy (pp. 6511-31). During discussion of this matter Sen. Humphrey stated, "the new administration dealt a double-barreled blow at agriculture through its new high-interest rate policy" by a boost in interest rates on CCC supported loans and on foreign purchases of agricultural commodities by the Export-Import Bank (pp. 6525-6).
- HOUSE
15. **FOREIGN AID.** Both Houses received the President's message recommending authorization for shipment of up to 1 million tons of surplus CCC wheat to Pakistan; to H. Agriculture and S. Agriculture and Forestry Committees (H. Doc. 171) (pp. 6540, 6563-4). The message states, "To make it available to Pakistan will create no additional Government expenditure at this time other than the cost of transportation. In order that the operations of the Commodity Credit Corporation will not be impaired, I am recommending that the legislation include authority for the Commodity Credit Corporation to recover its costs, including

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 12, 1953
For actions of June 11, 1953
83rd-1st, No. 107

CONTENTS

Adjournment.....	10,20	Farm program.....	23	Personnel.....	31
Air pollution.....	18	Flag.....	6	Potatoes.....	27
Agriculture census.....	29	Flammable fabrics.....	12	Research.....	13
Agriculture investiga- tions.....	1	Foreign aid.....	4,14,28	Rubber.....	26
Appropriations.....	2,11,22	Grain.....	14	T.V.A.....	22
Buildings.....	5	Immigration.....	24	Trade, foreign.....	9
Credit union.....	16	Intergovernmental rela- tions.....	17	War powers.....	7
Disaster area.....	8	Interest rates.....	15	Weather.....	21
Economic controls.....	3	Lands, public.....	19	Wheat.....	14
Electrification.....	25	Legislative program.....	110,20	Wool.....	30

HIGHLIGHTS: Senate completed final congressional action on Treasury-Post Office appropriation bill. Sen. Thye urged consideration of his bill providing surplus feed and food grains to Holland. Senate committee reported flammable fabrics bill. House reported 2nd independent offices appropriation bill. House sent economic controls bill to conference. House committee ordered reported mutual security extension bill. House agreed to resolution providing \$50,000 for agriculture investigations. Sen. Schoepfel introduced and discussed bill authorizing CCC to transfer surplus commodities to MSA.

HOUSE

- 1. AGRICULTURE INVESTIGATIONS.** Agreed, without amendment, to H. Res. 213, to provide \$50,000 for studies and investigations by the Agriculture Committee (p. 6637). The House Administration Committee had previously reported this resolution (H. Rept. 545) (p. 6655).
- 2. APPROPRIATIONS.** The Appropriations Committee reported without amendment H.R. 5690, second independent offices appropriation bill for 1954 (H. Rept. 550) (p. 6655). Rep. Yates received permission to file minority views on this bill (p. 6638).
- 3. ECONOMIC CONTROLS.** Reps. Wolcott, Gamble, Talle, Kilburn, Spence, Brown (Ga.), and Patman were appointed as conferees for S. 1081, authorizing temporary economic controls (pp. 6637-38). Senate conferees were appointed on June 10.
- 4. FOREIGN AID.** The Foreign Affairs Committee ordered reported (but did not actually report) the proposed mutual security extension bill. The "Daily Digest" states that, in addition to structural amendments, the committee cut \$476,000,000 from the proposed \$5,474,732,500, reporting the bill out at \$4,998,732,500. The cuts were: \$100 million from sec. 101 (a) (1)--Europe, \$100 million from Sec. 201--Near East and Africa; \$100 million for defense support in Europe, \$150 million for special weapons, \$25 million for basic materials, and \$1 million for ocean freight (p. D545).
- 5. PUBLIC BUILDINGS.** The Public Works Committee reported with amendment H.R. 5406, authorizing GSA to acquire Federal title to real property and to provide for the construction of certain public buildings for housing Federal agencies by

executing purchase contracts (H. Rept. 552) (p. 6655).

6. FLAG. Passed as reported S. 604, prohibiting display of other flags in equal or superior prominence to the U. S. flag except under specified circumstances (pp. 6644-46).
7. WAR POWERS. The Judiciary Committee ordered reported (but did not actually report) H.R. 2557, to extend title 2 of the First War Powers Act (contract authority of the President) through June 30, 1954 (p. D545).
8. DISASTER AREA. Agreed to H. Res. 276, providing for Federal aid to Massachusetts by classifying certain tornado devastated areas as disaster areas (pp. 6641-44).
9. FOREIGN TRADE. The purposes of H.R. 5495, extending the President's authority to enter into reciprocal trade agreements, as stated in the committee's report are:
 - "1. Extend until June 12, 1954, the authority of the President under section 350 of the Tariff Act of 1930, as amended, to enter into trade agreements as requested by the President;
 - "2. Reduce from 1 year to 9 months the period within which the Tariff Commission must make its investigation and report on applications for relief under the escape clause;
 - "3. Increase the membership of the Tariff Commission from 6 to 7; and
 - "4. Establish a temporary bipartisan commission to be known as the 'Commission on Foreign Economic Policy' which will provide the mechanism for a thorough examination of our foreign economic policy as recommended by the President."
10. ADJOURNED until Mon., June 15 (p. 6655). Legislative Program as stated by the Majority Leader: Mon., Consent Calendar, H.R. 5495, reciprocal trade agreements extension bill, and H.R. 5451, wheat marketing quota bill; Tues., Private Calendar and H.R. 5690, second independent offices appropriation bill which is expected to be passed on Wed., after which the legislative appropriation bill and H.R. 3203, the trip leasing bill, will be considered (p. 6638).

SENATE

11. APPROPRIATIONS. Passed without amendment H.R. 5174, the Treasury-Post Office appropriation bill for 1954 (pp. 6592-6600). This bill will now be sent to the President.
12. FLAMMABLE FABRICS. The Interstate and Foreign Commerce Committee reported without amendment H.R. 5069, prohibiting interstate commerce of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals (S. Rept. 400) (p. 6589).
13. RESEARCH. The Labor and Public Welfare Committee reported with amendment S. 977, which would amend the National Science Foundation Act so as to provide for an "open-end" authorization (S. Rept. 396) (p. 6589).
14. FOREIGN AID. Sen. Thye spoke favoring transfer of surplus wheat to Pakistan, and urged consideration of S. 847, providing shipment of surplus feed and food grains to Holland (p. 6590).
15. INTEREST RATES. Sens. Kerr, Capehart, Bush, and others, discussed the effects of increased interest rates on our economy (pp. 6600-22), and Sen. Bush

PROHIBITING THE INTRODUCTION OR MOVEMENT IN
INTERSTATE COMMERCE OF FLAMMABLE FABRICS

JUNE 11 (legislative day, JUNE 8), 1953.—Ordered to be printed

Mr. TOBEY, from the Committee on Interstate and Foreign Commerce,
submitted the following

REPORT

[To accompany H. R. 5069]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

SENATE COMMITTEE ACTION

In reporting favorably and without amendment the bill, H. R. 5069, this committee has been aware of a number of differences, most of them minor, between the reported bill and S. 2918, a similar bill reported by this committee last year. The committee felt, however, that H. R. 5069, represents a distinct improvement over last year's S. 2918, especially in section 4, concerning the standard of flammability. The compromise reached by the House committee on the procedure to be used in the event the Secretary of Commerce believes changes in the test methods, procedures, and standards for determining degree of flammability are necessary in the public interest, is a good one. It satisfies both the industry's objections to complete discretion being lodged with the Secretary as well as objections to a continuation of those procedures under which the current "Commercial Standard 191-53" was established—which procedures, if enacted into law, are considered by many as an unconstitutional delegation of rulemaking power. The House solution places responsibility for changes in the applicable commercial standards on the Congress, where such responsibility should rest.

Because of this committee's thorough agreement with the House version of flammable fabrics legislation, the committee adopts House Report No. 425, 83d Congress, 1st session, as most suitable for its purposes. There is being added, however, are portfrom the Department of Justice on S. 715, a similar bill, containing pertinent recommendations. In adopting the House report, the committee desires to note that it follows to a considerable extent much of its own report, No. 1869, on S. 2918 last year.

PURPOSE OF LEGISLATION

The purpose of the bill here being reported, which has this committee's unanimous approval, is to protect the public from the danger surrounding the use in wearing apparel of highly flammable textiles of the types which have caused either bodily injury or death to numerous individuals. The bill is limited in scope to wearing apparel and fabrics which are intended or sold for use in wearing apparel. It will outlaw, for example, the introduction, movement, or sale in interstate commerce of highly flammable children's cowboy playsuits, and the so-called torch sweaters or jackets which have caused serious injuries and death to a number of innocent and unsuspecting individuals in recent years.

HEARINGS

On April 16, 28, and 29, 1953, the House Committee on Interstate and Foreign Commerce held public hearings on five similar bills, H. R. 389, by Mr. Canfield of New Jersey; H. R. 2768, by Mr. Wolvertton of New Jersey; H. R. 3851, by Mr. Canfield of New Jersey; H. R. 4159, by Mr. Johnson of California; and H. R. 4500 by Mr. Williams of Mississippi. The principal objective of all these bills is to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals. H. R. 5069, the reported bill, was introduced by Mr. Wolvertton, chairman of the House committee, and at the direction of the committee, as a "clean" bill as a result of the committee hearings and after executive consideration of all the bills pending before the committee.

Every witness who testified before the committee, without exception, representing virtually all segments of the textile industries and trades, urged prompt and effective Federal legislation to protect the public from the dangers of highly flammable wearing apparel and fabrics used in wearing apparel, and supported these bills in principle. Moreover, the committee was urgently requested to take prompt action on this legislation. It was pointed out that if this legislation is not enacted, a variety of State and local regulations lacking in uniformity might very well ensue. It seems obvious that uniformity of regulation in this matter is necessary.

Testimony in support of legislation on this subject was received from the Federal Trade Commission, the National Cotton Council of America, the National Retail Dry Goods Association, the Tufted Textile Manufacturers Association, the Society of the Plastics Industry, the Rayon and Acetate Fiber Producers, and others.

NEED FOR THE LEGISLATION

Actual experiences in the past show that the risks and possibilities of bodily harm suffered by consumers in the use of highly flammable wearing apparel are severe and most dangerous. Still fresh in our minds is the great wave of burnings and even deaths which children have suffered when wearing highly flammable cowboy playsuits. More recently, there have been a number of cases involving the so-called explosive sweaters which were sold to the public by itinerant vendors.

The Federal Trade Commission cited a number of these incidents. One man lost his sweater in flames while sitting in a courtroom. In another instance a man driving his automobile lit a cigarette which ignited his sweater. He succeeded in pulling it over his head but suffered second- and third-degree burns on his face, neck, and hands. His car jumped the curb and collided with a telephone pole. Instances of severe burns suffered by individuals were reported from many parts of the country. A General Motors employee reported that he lit a cigarette while wearing his new Christmas sweater and that four fellow employees saved his life by beating out the flame. He said:

It was a terrifying thing. It was just as if you threw a match into a rag soaked with gasoline. There was that same "poof" sound, and all of a sudden flames were all over me.

Other examples of the danger inherent in apparently innocent but nevertheless highly flammable wearing apparel were given by Dr-Frederic Bonnet, adviser to the president of the American Viscose Corp., when he testified in 1947 before this committee on similar proposed legislation. Here is his description of a few of these tragedies and near tragedies:

Martha M. Gross, Kansas City, Mo., had a sweater patterned after angora, having long, fuzzy nap, purchased in Baltimore. The head of a match flew off against the sweater, igniting it. Her brother and sister came to her rescue and both were burned. She was very ill and suffered disfiguring scars and her hands were injured so that she could no longer follow her profession, which was that of a stenographer and secretary.

I would like to add here that she sent a very pathetic letter to the National Bureau of Standards, and to other departments, asking whether something could not be done to prevent such accidents happening to others. She said it was all over with her case, but certainly life was still dear in America.

Then, we have the case of Doris E. Dittenbach who was injured when a cotton chenille dressing gown took fire.

Georgia Stevens, 18-year-old coed, was burned to death at a sorority initiation rite last spring at the University of Texas. It was a candlelight initiation and her gown brushed against a lighted candle. She died the next morning.

Virginia Black wore a white tulle dress at a coming-out dance at the St. Regis Hotel. The dress caught fire and she was severely burned. She is still in the hospital, I understand.

Angelica and Harry Murphy are bringing suit for \$125,000 because of some apron material, a coated fabric so highly flammable that when it came in proximity of a heated stove it took fire and severely burned her and her husband.

Mary Lee Cummings, aged 5, Whittier, Calif., was wearing a plastic raincape and backed into a radiant heater which ignited the plastic, causing second- and third-degree burns from which she died. That is the one that Mr. Dorn referred to in his testimony, and was reported by the California State fire marshal.

I need hardly refer you to the twenty-odd boys 3 to 8 years of age who were burned, maimed, and 6 of whom died, as the result of burns sustained when their cowboy suits took fire.

The National Fire Protective Association records the following:

In Oakland, Calif., a girl died from burns received when her costume caught fire at a lodge entertainment.

In Magnolia, Ark., a Negro woman died from burns received when a grass dress caught fire from a can heater in a dressing room of a traveling minstrel show.

In Omaha, Nebr., a child dressed in an Indian costume which caught fire from the lighted jack-o'-lantern she was carrying. She suffered fatal burns.

I might add that children go to communion or confirmation carrying lighted candles, and have been injured.

In New Orleans on February 12, 1947, a bride, Mrs. Jess Rockenbaugh, was wearing a bathrobe which caught on fire. She was saved by her husband who cut the robe belt and pulled off the robe, but not before she suffered third-degree burns, and she is still in the hospital.

In Old Greenwich, Conn., a man's pajamas caught fire from the kitchen range. He suffered fatal burns. Those were cotton nap pajamas.

In Portland, Oreg., a man died of burns received when his trouser leg became ignited by a match. I do not know what he was wearing.

In Washington, D. C., a child's costume became ignited from a candle in a jack-o'-lantern. She was out in the yard when the accident occurred. She suffered fatal burns.

In Indianapolis, Ind., a woman pulled a light plug from a receptacle when a short circuit occurred, throwing sparks onto her dress. She suffered fatal burns.

In Yonkers, N. Y., a 4-year-old child was turned into a blazing torch as her Halloween costume was ignited by a jack-o'-lantern. She died in a hospital.

In Detroit, Mich., a man died of burns when his bathrobe caught fire when he was tending the furnace in his home.

In Denver, Colo., a woman suffered fatal burns when her clothing ignited while standing in front of a lighted fireplace.

I might mention a few others mentioned this morning. Namely: Mrs. Booth Tarkington was wearing some hair combs and was drying her hair in an ordinary hair dryer when she suffered severe burns owing to the ignition, spontaneous ignition, of those combs.

There was also a case of a woman sitting in front of a chafing dish wearing nitrocellulose buttons. These buttons practically exploded in her face and set her afire. She died of her injuries. This is given in Coronet under the heading of an article headed "Fire Trap."

I need not go on, I think, with the recitation of these cases. They extend over many years. They have grown more numerous within recent years.

In January 1952, a rash of burnings took place, involving highly flammable sweaters. Some of these cases are summarized below:

SOME NEWSPAPER CLIPPINGS RECEIVED BY THE FEDERAL TRADE COMMISSION RELATING EXPERIENCES INDIVIDUALS HAVE HAD WITH DANGEROUSLY FLAMMABLE BRUSHED RAYON WEARING APPAREL

The Kansas City Times of January 9, 1952, reported under Los Angeles dateline of January 8 that the fire captain of Los Angeles had received reports of at least a dozen cases in which brushed fabric sweaters had caught fire and at least eight persons injured by burns.

The Kansas City Star of January 10, 1952, reported that Paul Blake of Kansas City ignited a cigarette with his lighter and when he placed the lighter into the sweater pocket, the sweater burst into flames. Four fellow employees saved him from burns by beating the flames out after half the sweater had been consumed.

The New York Times of January 12, 1952, reported that Robert Flavin of Long Branch, N. J., was burned on both hands the day previous when a sweater he was wearing flared up as he struck a match to light a cigarette.

The New York Sunday News of January 13, 1952, reported that Mrs. Mary Sheffield of Newark, N. J., was burned about both hands when the sweater she was wearing suddenly burst into flames as she turned on her gas stove to prepare a meal. The same issue newspaper reported that at least 20 persons throughout the country had been injured by flaming sweaters.

The Norristown (Pa.) Times of January 14, 1952, reported that Edward C. Martin of Schwenkville lighted a cigarette with a match and the sweater he was wearing went up "like a Roman candle." A friend extinguished the fire by throwing water on the sweater but not before Martin's neck was scorched.

The Washington Post of January 16, 1952, reported that J. Patrick Staubs of Silver Spring, Md., escaped serious injury the previous Sunday when the sweater he was wearing on a golf course caught fire as he lighted a cigarette.

The Federal Trade Commission undertook in the problem of the flaming sweaters to exercise, to the fullest, such powers as it presently has in an effort to protect the public, but as the Commission's witness pointed out during the course of the hearings, the present law is inadequate to cope fully with the problem. Legislation is needed to make it possible effectively to forestall the introduction into the market of these highly flammable products. After the dangerous articles leave the factory and get into one or more of the many channels of trade, it becomes impossible to track them down in time to prevent persons from being badly burned and even suffering death, as in the case of the playsuits which were worn by children when they took fire and resulted in the death of many of them. Legislation in which the corrective power is of a preventive nature is required to be effective in reaching the evil, as well as power to enjoin and stop continued distribution of the dangerous articles.

Your committee is advised by the Federal Trade Commission that the authority conferred by existing statutes is not adequate to forestall the danger to the public in this situation, or even to provide a temporary stop order during the time that is required for litigation to follow its necessary course to final application of the corrective power. The Commission further advises that the right of applying a temporary restraining order or injunction, or of preventive inspections, is presently not available to it. Furthermore, there is now no direct statutory authority to keep dangerously flammable garments out of the channels of interstate commerce.

Charles W. Dorn, director of the research laboratory of the J. C. Penney & Co., and chairman of the technical committee of the National Retail Dry Goods Association, appearing before the committee in support of this legislation, gave still another cogent reason for its enactment. He testified that—

The NRDGA has always believed that the United States grew strong because of the sovereignty of the individual States and has staunchly opposed extension of Federal jurisdiction over matters best handled at the State level. In this instance, however, we firmly believe that the Congress must lead the way. Recently several States and a number of city and other local bodies have considered legislation on the subject of dangerously flammable apparel. Only one State, California, has adopted such legislation. The confusion which is bound to result if the several States were to legislate individually on this subject is obvious, for in the absence of a national standard, each State and local community would provide for different guides or measurements. I can readily testify that this is not an idle conclusion, for in the past months the possibility of a Federal enactment has been the sole basis for postponing very unsatisfactory legislation in several States.

Failure by this Congress to act undoubtedly will cause a flood of haphazard local legislation which will not only bring on an impossible situation in the textile industries, but, more important, will deny to many consumers the responsible protection contained in the proposed bills.

The manufacturers of your respective States would have great difficulty in producing garments or fabrics which would comply with the different requirements of 2 or 20 different State acts, to say nothing of different local ordinances. And those residents of States which failed to act would have no protection at all. For these reasons I urge the Congress to legislate on this subject and thus insure uniformity and protection for all.

HISTORY OF LEGISLATION

Bills to prohibit the transportation in interstate commerce of highly flammable fabrics and wearing apparel have been introduced in the House beginning with the 79th Congress, 1st session (1945). In the 80th Congress, the House committee held extensive hearings on three flammable fabric bills, namely, H. R. 505, by Mr. Canfield, of New Jersey; H. R. 601, by Mr. Johnson, of California; and H. R. 1111, by Mr. Arnold, of Missouri. Similar bills were introduced during the 81st and 82d Congresses. In the 82d Congress, the Senate passed unanimously on July 3, 1952, S. 2918, a bill similar in many respects to the reported bill H. R. 5069. S. 2918 was reported by the House committee on July 4, 1952. The House took no action on that bill prior to the adjournment of the Congress on July 7, 1952.

STANDARDS OF FLAMMABILITY

The major problem in formulating legislation to control the use of dangerously flammable textiles is to discriminate between the conventional fabrics that present moderate and generally recognized hazards and the special types of fabrics which present unusual hazards and are highly dangerous.

The rate of burning of a garment or other textile product depends upon the kind of fiber, the finishing materials present, the structure of the yarn and fabric, and such circumstances as the relative humidity. In general, wool textiles ignite and burn with difficulty while cotton and rayon ignite and burn more readily. The major hazards arise from certain cotton or rayon fabrics having fuzzy or furlike surfaces which flash and burn with exceeding rapidity. Most synthetic textiles melt when heated and the molten material is capable of producing serious burns on coming in contact with the skin.

Section 4 of the bill prescribes the standards of flammability. Commercial Standard 191-53, promulgated by the Secretary of Commerce effective January 30, 1953, prescribes the standard for flammability of clothing textiles and Commercial Standard 192-53, promulgated by the Secretary of Commerce effective May 22, 1953, prescribes the standard of flammability for vinyl plastic film.

Commercial Standard 191-53 is a voluntary standard developed through the combined effort of a number of scientific and technical groups and represents the combined opinion of an industry committee speaking for the cotton and rayon producers, and fabric manufacturers, finishers, converters, wholesalers, retailers, and consumers coordinated by the American Association of Textile Chemists and Colorists and the National Retail Dry Goods Association. The National Bureau of Standards participated in this work by active service on technical committees, by the conduct of a wide variety of investigational and testing work, and by aiding in the reconciliation of different points of view.

The flammability test provided in the Commercial Standard 191-53 makes use of strips of fabric 2 by 6 inches in dimensions. The test consists of measuring the burning time in seconds when the test piece is mounted in a specially designed apparatus and a flame is applied in a prescribed manner. Fabrics with a flame spread of more than 7 seconds are classed as having normal flammability. Those with a

flame spread of less than 4 seconds are classed as rapid and intense burning, while those burning in 4 to 7 seconds are rated as having intermediate flammability. This bill is directed to those fabrics which are classed as rapid and intense burning fabrics.

Commercial Standard 191-53 states that this standard shall not apply to hats, gloves, and footwear. Notwithstanding this specific exception made in the standard, it is the intention of your committee that this standard shall be applicable to the hats, gloves, and footwear defined in section 2 (d) of this act. Commercial Standard 192-53 makes no exception to hats, gloves, and footwear.

Commercial Standard 192-53 is the industry-approved standard with respect to vinyl plastic film. Such film is used in the manufacture of various articles of wearing apparel such as raincoats, capes, hoods, pants, and aprons. The flammability test is prescribed in paragraph 3.11 of this standard.

Section 4 provides further that if at any time the Secretary of Commerce finds that the commercial standards referred to above are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings, together with such proposals for legislation as he deems appropriate.

The committee intends that the Secretary of Commerce shall make continuous studies of the suitability and effectiveness of these and related test methods in providing adequate protection to the public from the hazards of flammability.

ADMINISTRATION AND ENFORCEMENT

H. R. 5069 follows the pattern of legislation established by the Wool Products Labeling Act of 1939, and the Fur Products Labeling Act, enacted in the 82d Congress. If enacted into law, H. R. 5069 will be administered and enforced by the Federal Trade Commission. The act will take effect 1 year after the date of its enactment.

SECTION-BY-SECTION EXPLANATION OF THE BILL

Section 1 provides a short title for the act: "Flammable Fabrics Act."

Section 2 contains definitions of various terms used in the bill. "Article of wearing apparel" is defined as any costume or article of clothing worn or intended to be worn by individuals. Hats, gloves, and footwear are excepted, provided that such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals; provided also that such gloves are not more than 14 inches in length and are not affixed to or do not form an integral part of another garment; and provided that the footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

The term "fabric" is limited to material that is intended or sold for use in wearing apparel, with an exception for interlining fabrics when intended or sold for use in wearing apparel. "Interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

Section 3 declares that the manufacture for sale, the sale, or the offering for sale in commerce, or the importation into the United

States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel, or fabric, or wearing apparel made of fabric which is so highly flammable as to be dangerous when worn by individuals shall be unlawful, and an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

Section 4 is the "Standard of flammability" section. It provides that any fabric or article of wearing apparel shall be deemed so "highly flammable" within the meaning of section 3 as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the commercial standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or in the commercial standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53."

If these standards are, at any time, found by the Secretary of Commerce to be inadequate for the protection of the public interest, he must submit a report to the Congress setting forth his findings, together with such proposals for legislation as he deems appropriate.

Section 5 is the administration and enforcement section. It states that sections 3, 5, 6, and 8 (b) shall be enforced by the Federal Trade Commission under rules, regulations, and procedures provided for in the Federal Trade Commission Act. It also authorizes the Commission to make inspections, tests, analyses, and examinations of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of the act.

Section 6 provides for injunction and condemnation proceedings where the Commission deems such proceedings are warranted.

Section 7 is the criminal penalty section applicable to willful violations of section 3 of 8 (b) of the act.

Section 8 is the guaranty section. Subsection (a) provides that no person shall be prosecuted under section 7 for a violation of section 3 if such person establishes a guaranty received in good faith from the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received to the effect that reasonable and representative tests were made under the procedures provided in section 4, and that such tests show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not so highly flammable as to be dangerous when worn by individuals. This subsection specifies what provisions the guaranty shall contain. Provision is made for a separate guaranty or a continuing guaranty. The furnishing of a guaranty is optional. Subsection (b) makes unlawful the furnishing of a false guaranty, and declares that any person who violates the provisions of this subsection is guilty of an unfair method of competition and an unfair or deceptive act or practice in commerce within the meaning of the Federal Trade Commission Act.

Section 9 relates to shipments from foreign countries. It authorizes penalties in the case of those persons who export or attempt to export

from any foreign country into the United States any wearing apparel or fabric which is so highly flammable as to be dangerous when worn by individuals.

Section 10 contains the usual separability clause and provides that the provisions of this act shall be held to be in addition to, and not in substitution of, the provisions of any other law.

Section 11 excludes from the provisions of the act common and contract carriers and freight forwarders, certain converters, processors, or finishers, as well as any article of wearing apparel or fabric which is shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable as to be dangerous when worn by individuals.

Section 12 provides that the act shall take effect 1 year after its enactment.

Section 13 authorizes the necessary appropriations to carry out the purposes of the act.

CONCLUSION

Your committee believes that the inadequacy of present statutory powers to cope effectively with the urgent problem of protecting innocent and unsuspecting individuals from bodily injury and even death resulting from the use of wearing apparel, and fabrics used in wearing apparel, which are highly flammable makes the enactment of this legislation imperative.

REPORTS FROM EXECUTIVE DEPARTMENTS IN SUPPORT OF LEGISLATION

Reports on H. R. 389, H. R. 2768, H. R. 3851, H. R. 4159, and H. R. 4500, upon which the House committee held public hearings, were received from the Federal Trade Commission, the Department of Commerce, the Department of Agriculture, and the Board of Commissioners for the District of Columbia. These reports follow.

FEDERAL TRADE COMMISSION,
March 19, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. WOLVERTON: This is in response to your recent communication requesting report and comment upon H. R. 2768, entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

The text of the bill, H. R. 2768, appears to us to be in excellent shape with the exception of certain points which we believe merit careful consideration by the Congress. These points and our suggestions and comments in respect to them are presented as follows:

SCOPE OF H. R. 2768

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Such things, therefore, as blankets for children and adults, bedspreads, laprobes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. Fabric merchandise used in the home can be highly flammable and involve much danger to the safety of individuals in their constant

use in close contact with individuals in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal, active, inbetween ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisions. Unless restricted at least to the extent attempted by such provisos, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headware which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason, the provisos likewise properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited, these articles present difficulty in respect to quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber filament or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grownups, and other use of yarns and filaments in connection with family-made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances, it is our view that the exception of fiber filaments and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 second or more are required to burn it a distance of 6 inches when placed at a 45° angle in a draftproof venti-

lated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to flammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

Terms of the standard provide that the fabric shall be evaluated on the basis of its first having undergone dry cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry cleaned. For the most part, consumers do not wash or dry clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry cleaning, but also the dangers and risks involved in wearing the garment before it has been dry cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

In respect to section 4 of the bill it is also noted that the Secretary of Commerce "is authorized and directed to establish test methods, procedures, and standards for determining the rapid and intense burning of wearing apparel and fabrics and to promulgate such test methods, procedures, and standards by publication in the Federal Register." Further provision is made to the effect that he shall not promulgate any test method, procedure, or standard, for purposes of the bill, unless in his opinion such "are adequate for the protection of the public interest." As indicated above we regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) In further reference to standards it is noted that H. R. 2768 carries subsection 2 (i), defining the term "commercial standard." This subsection in the definitions is unnecessary since the only reference to the term in the remainder of the bill is that found in section 4 wherein the standard referred to is adequately identified and described. We therefore recommend the elimination of subsection 2 (i).

OTHER COMMENT

(6) The first word of section 5 (d) (1), namely, the word "cease," should be changed to the word "cause" to correct a misprint. Likewise, the small letter "i" in the commercial standard number in line 22 on page 5 should be changed to the figure "1" to correct a misprint.

Immediately preceding section 10 it may be helpful to insert the title "Interpretation and Separability," since titles are applied to all other sections.

In section 8 (a) the clause in lines 5 and 6 reading "under the presently existing procedures for the establishment of commercial standards" should be deleted. This clause has evidently been inserted inadvertently. As explained above, it should not be used as a limitation upon the power of the Secretary of Commerce to promulgate test standards which he finds necessary in the public interest. Opportunity for hearing or conferences of all parties concerned in the test standards would still be available under the Administrative Procedure Act, and without the above-quoted clause suggested for deletion.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of highly flammable textile merchandise reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which

consumers have suffered severe burns and even death. The Commission under its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease-and-desist orders were issued in due course against parties placing such fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation along the general line of H. R. 2768 which is directed to providing a means of forestalling the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles or have them removed from sale. This points up the importance of the prophylactic character of the bill.

In our opinion passage of the legislation, subject to the matters suggested above, will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAMES M. MEAD, *Chairman.*

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on March 19, 1953, and on March 20, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

JAMES M. MEAD, *Chairman.*

[NOTE.—A similar report was received from the Federal Trade Commission on H. R. 389, a bill practically identical to H. R. 2768, and generally similar to H. R. 5069.]

THE SECRETARY OF COMMERCE,
Washington 25, April 15, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This letter is in further reply to your communications of February 10, March 12 and 25, 1953, requesting the views of this Department with respect to H. R. 2768, H. R. 3851, and H. R. 4159, respectively, bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

We believe that legislation for this purpose is essential for the protection of the public. Recent newspaper accounts of loss of life of children and adults caused by ignition of clothing, such as the appropriately designated "explosive sweaters," make out a case for the need for regulation in this field. State action is generally limited to regulation at the point of sale to the ultimate user. State action also falls on the usually innocent retailer rather than on the manufacturer who, in contrast to the retailer, is in a position to know of the potential dangerous character of the fabric utilized in making the garments. Because of the interstate traffic in these materials, Federal regulation appears to be the only effective means of eliminating the hazard.

We wish to invite your attention to the fact that H. R. 4159 and H. R. 3851 provide that the standard of flammability shall be the commercial standard now in effect and any modification thereof shall be made in accordance with presently existing procedures for the development of commercial standards.

The assent of a large segment of the affected industry is required before standards are placed in effect or modified under presently existing procedures. Where

adherence to commercial standards is purely voluntary, this procedure is satisfactory. The required assent to modifications of the standards of flammability by a substantial number of the persons to be regulated by the proposed law raises a question of the constitutionality of the delegation of authority to establish modifications in the standard. The applicable law is not clear. In any event the policy involved appears subject to question.

For these reasons, H. R. 2768, which does not require industry approval of changes in the present standard, is, in our opinion, preferable if certain minor amendments are made thereto.

On page 5, line 22 should read "Commercial Standard CS191-53, 'Flammability of Cloth-".

On page 5, line 24, the words "shall be effective" should be inserted before the period.

On page 6, line 24, the first word should read "cause".

On page 10, lines 5 and 6, the words "under the presently existing procedures for the establishment of commercial standards" should be deleted since the present procedures for establishing standards do not relate to the furnishing of guaranties.

Subject to your consideration of these amendments, the Department recommends enactment of H. R. 2768.

We have been advised by the Bureau of the Budget that there would be no objection to our submission of this letter.

If we can be of further assistance in this matter, please call on us.

Sincerely yours,

C. R. SHEAFFER,
Assistant Secretary of Commerce.

[NOTE.—The reported bill H. R. 5069 is generally similar to the above-mentioned bills.]

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. WOLVERTON: This is in response to your request of February 10 for a report on H. R. 2768, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

The bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel and fabrics for use in wearing apparel which are so highly flammable as to be dangerous when worn by individuals. The bill provides that the Secretary of Commerce shall establish test methods, procedures, and standards for use in determining high flammability within the meaning of the proposed act but apparently would allow the use of the present Commercial Standard for Flammability of Clothing Textiles promulgated by the Secretary of Commerce until other test methods, procedures, and standards are promulgated by him under the bill.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph 2 of section 4, and that the last paragraph of this section be deleted. If this suggestion is adopted, the definition of commercial standard in subsection 2 (i) on page 3 of the bill should also be omitted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

14 INTRODUCTION OR MOVEMENT OF FLAMMABLE FABRICS

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

[NOTE.—A similar report was received from the Department of Agriculture on H. R. 389, a bill practically identical to H. R. 2768, and generally similar to H. R. 5069.]

BOARD OF COMMISSIONERS,
DISTRICT OF COLUMBIA,
March 19, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
United States House of Representatives, Washington, D. C.*

MY DEAR MR. WOLVERTON: The Commissioners have for report H. R. 389 and 2768, 83d Congress, substantially similar bills to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The Commissioners are of the view that the proposed legislation, if enacted, would tend to prevent such occurrences as the tragedies occurring in 1945 and 1946, involving the death of 1 child and the injury of 3 others as the result of wearing highly flammable cowboy suits having fleecy, brushed rayon pants. Further, in early January 1952, only the prompt action of the fire marshal of the District of Columbia coupled with widespread publicity, brought to the attention of the public the great danger inherent in the wearing of certain sweaters then being sold in the District by a number of itinerant vendors. These sweaters, of a highly flammable, almost explosive fabric, were similar to those causing injury elsewhere in the United States, and it is believed that had the fire marshal not acted promptly, these sweaters might have caused injury, and perhaps death, to residents of the District. H. R. 2768, if enacted, would tend, it is believed, to reduce the likelihood of such sweaters, and similar highly flammable apparel and fabrics, being brought into the District for purposes of sale.

The Commissioners desire to point out that the third paragraph of section 4 of H. R. 2768 appears to be incomplete, and perhaps should be completed by inserting, immediately before the period at the end thereof, a comma and the phrase "shall be applicable." Further, the word "cease" appearing in line 24 of page 6 of H. R. 2768, and in line 1 of page 7 of H. R. 389, probably in each case should read "cause."

H. R. 2768, with its reference in the third paragraph of section 4 to the promulgation of "Commercial Standards CS 191-53, 'Flammability of Clothing Textiles'," as compared with the reference in the same paragraph of H. R. 389 to "Recommended Commercial Standard for Flammability of Clothing Textiles, TS-5131," would appear to supersede H. R. 389. Accordingly, the Commissioners make no recommendation with respect to H. R. 389, but recommend the enactment of H. R. 2768 as being in the welfare of, and constituting a safeguard for, the residents of the District of Columbia.

As you requested in your letter of January 12, 1953, on H. R. 389, and of February 19, 1953, on H. R. 2768, this report is being submitted in sextuplicate, so as to provide three copies for your files on each of these bills.

The Commissioners have been advised by the Bureau of the Budget that there is no objection on the part of that office to submission of this report to the Congress.

Very sincerely yours,

F. JOSEPH DONOHUE,
President, Board of Commissioners, District of Columbia.

(NOTE.—The reported bill, H. R. 5069, is generally similar to the above-mentioned bills.)

FEDERAL TRADE COMMISSION,
April 9, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your communication of March 20, 1953, requesting report and comment upon H. R. 3851 entitled "A bill to prohibit the introduction or movement in interstate commerce of articles of

wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes" (83d Cong., 1st sess.).

The text of this bill is in large part identical to that found in H. R. 389 and H. R. 2768, as to which we have heretofore submitted comment. In the circumstances, the new bill, H. R. 3851, retains certain points as well as some others which we believe merit careful consideration by the Congress. Our suggestions and comments in regard thereto are presented below.

We wish, however, to state at the outset that the problem to which the proposed legislation is directed has been the subject of much attention by the Commission. In our view the need for more adequate protection of the public against the hazards and risks arising from the marketing of textile merchandise of highly flammable character is a pressing one.

SCOPE OF H. R. 3851

(1) It will be noted that the bill in its scope is limited to certain articles of wearing apparel and fabrics which are intended or sold for use in wearing apparel. Therefore, such items as blankets for children and adults, bedspreads, laprobes, upholsteries, draperies, stuffed toys, rugs, and household textiles generally are not covered by the measure. These fabrics used in the home can be highly flammable and involve much danger to individual safety in their customary use which is in close contact with persons in the family. They may be especially hazardous to small children and elderly persons who, it may be assumed, are not able to act with as much speed or agility for protecting themselves in the event of fire as are the normal, active, in-between ages.

Exclusion of these textiles, therefore, presents a serious question as to whether the bill should be enlarged in its scope so as to be applicable to such household or family textiles when they are so highly flammable as to be seriously dangerous to individuals in their ordinary use in the home.

We feel that these additional items when made of dangerously flammable materials should not be excluded from the bill unless the committee prefers to have them treated in separate legislation. This might well be deemed by the committee to be a desirable course to follow in view of the apparent need of having at least partial coverage speedily enacted into law.

(2) With respect to the exception provided in section 2 (d) of "hats, gloves, and footwear," it is noted that such is limited by provisos. In previous consideration of legislation of this type we had suggested restrictions of the character set forth in these provisos. Unless restricted at least to the extent thereby attempted, the exemption of hats, gloves, and footwear, it appears, would in instances leave the public exposed to the dangers against which the bill is intended to afford protection.

Without the limiting provisions, such wearing apparel as hoods, baby bonnets, head scarves, and types of headwear which cover the neck, face, or shoulders, are likely to be excluded from the law, although when made of fabrics which under the standards of the bill exhibit rapid and intense burning, they can present hazards of most serious consequence. For the same reason the limitations also properly prevent an exception being accorded to gloves which are very long or are part of another garment, to hosiery, and to types of footwear that form part of another article of wearing apparel. In the event of their becoming ignited these articles present difficulty with respect to the possibility of their quick removal from the person. Such factor is of considerable importance since avoidance of dangerous burns depends in large measure upon the ease and speed with which the garment can be taken off by the wearer.

While not wholly removing the exemption of hats, gloves, and footwear, we believe the provisos set forth in section 2 (d) are necessary to afford certain reasonable limitation of the character mentioned in the interest of protecting the consumer.

(3) Among further exemptions from the measure is that of "fiber, filament, or yarn" as provided in section 2 (e). Textiles within this exempt class are used extensively for hand knitting and making into garments in the home. The hand knitting of sweaters for children and grownups, and other use of yarns and filaments in connection with family-made garments or articles are not uncommon. It appears that materials in this class, especially those of the rather loose or soft type, can be of highly flammable and hazardous character.

In the circumstances it is our view that the exception of fiber, filaments, and yarns contained in section 2 (e) should be removed so that the measure will not exempt from its scope those filaments and yarns sold to ultimate consumers for home knitting or making into garments which in their normal and intended construction and use are so highly flammable as to be dangerous to individuals.

The ordinary yarns or filaments widely used in the home, and which are not of such highly flammable and dangerous character, would not be disturbed by removal of this exemption because the restrictions imposed by the bill are intended to apply only to the materials which exhibit such rapid and intense burning as to be dangerous when worn by individuals.

STANDARD OF FLAMMABILITY

(4) Section 4 of the bill specifies the Commercial Standard CS 191-53 as the required test for dividing between those fabrics and articles of wearing apparel which are so highly flammable as to be dangerous when worn by individuals, and those which are not. This commercial standard was developed, according to our understanding, by the industry under the procedures of the Department of Commerce and the National Bureau of Standards.

The efficacy of the entire legislation under the language of the bill would depend upon whether or not this standard is in fact adequate from the standpoint of affording due protection of the consuming public. It provides, for example, that if, after the fabric has been dry-cleaned and washed, 4 seconds or more are required to burn it a distance of 6 inches when placed at a 45° angle in a draftproof ventilated cabinet, that fabric shall not be considered under the ban of the test and consequently not under the control of this bill. It will be noted that the line of demarcation between the good and the bad, in respect to flammability, is so finely drawn that 1 second of burning determines whether or not the article is of a dangerous character.

As indicated the terms of the standard specifically provide that the fabric shall be evaluated on the basis of its first having undergone dry-cleaning and washing. Dangerously flammable sweaters which gave rise to a rash of burnings in different parts of the country and against which the Commission has proceeded under the limited powers now available to it, involve cases which took place before the sweaters were washed or dry-cleaned. For the most part, consumers do not wash or dry-clean new garments until after they have been worn for a considerable period of time. Therefore, the hazards that should be guarded against not only are those which take place after washing and dry-cleaning, but also the dangers and risks involved in wearing the garment before it has been dry-cleaned or washed. There may be a serious question in the circumstances as to whether the test procedure of the standard is realistically adjusted to conditions applicable to the consumer in his normal use of the garment.

We feel that the standard of flammability fixed should necessarily be one that is found to be adequate to afford that due protection of the consumer which it is the purpose of the legislation to achieve. While the commercial standard specified has been promulgated by the Department of Commerce, it is our understanding that this does not constitute a finding or ruling either by the National Bureau of Standards or by the Secretary of Commerce that in their opinion such standard is adequate from the standpoint of the public.

We regard the necessity of making this finding of adequacy in the public interest as highly important.

The working out of a proper test method involves technical skills and the operation of scientific apparatus, and we are of the opinion that the scientific and technical facilities available in the National Bureau of Standards in the Department of Commerce should be utilized for making the official finding and ruling of adequacy of whatever test method is to be sanctioned by law as determinative.

(5) Further, it is provided in section 4 (b) of H. R. 3851 that when in his opinion the protection of the public interest so requires, the Secretary of Commerce is authorized to modify or supplement the test standard of flammability, provided he follows the procedure used in setting up Commercial Standard 191-53. This requirement would prohibit the Secretary of Commerce from modifying or supplementing the test unless he obtained the consent of 65 percent of the industry or at least of a majority, which is a requirement of the commercial standard procedure. Such presents an unprecedented situation of having the standard of legality or illegality under a penal and civil statute turn upon the consent of the industry to which the legislation applies.

The duty of the Secretary of Commerce to determine appropriate and adequate test standards is highly important and should not in our opinion be subjected to a veto by the industry but should be controlled by what is necessary for proper protection of the public interest. Under the proposed legislation the public's protection against dangerously flammable textile depends almost wholly upon the adequacy of the test method sanctioned by the law.

We suggest in the circumstances that the proviso in section 4 (b) be deleted. A requirement for extending opportunity for hearing and consultation with the industry and all parties concerned when issuing, modifying, or supplementing the test standards remains available under the Administrative Procedure Act.

Section 2 (i), among the definitions in the bill, should also be deleted as superfluous since the commercial standard mentioned is fully and effectively identified in section 4.

GUARANTIES

(6) The guaranty provisions contained in section 8 of H. R. 3851 are considerably different from those contained in the corresponding sections of H. R. 389 and H. R. 2768 previously presented. Under H. R. 3851 the guarantor would not as provided in the other bills guarantee that the product is safe under the test specified or that it is not so highly flammable as to be dangerous to individuals when worn. It would merely warrant in effect "that reasonable and representative tests" have been made and that these show the specific type of fabric when tested under the standard "was not highly flammable within the meaning of section 3."

Fabrics are produced and sold in large bolts containing hundreds of yards. It is generally contended that the test applied to one or more parts of such fabric may indicate it is not highly flammable, whereas tests of various other parts of the same bolt of fabric may show it to be highly flammable and dangerous. If tests made happen not to touch the latter parts or yardage of the bolt, garments made therefrom will necessarily be highly flammable and dangerous and yet will reach the public under an approved guaranty.

In the circumstances of these variables and the debatable point of what shall constitute reasonable and representative tests, there is serious doubt that the guaranty could afford much assurance of safety of the product although it would accord immunity from the act to all subsequent processors, manufacturers, distributors, and dealers.

A further point arises from the insertion in section 5 respecting the enforcement power against a false guaranty. Enforcement is thereby restricted to prevention of "knowingly issuing a false guaranty." It would be most difficult, if not impossible, for the administering agency to sustain the burden of proving the fact of "knowingly" issuing a false guaranty and of showing that the manufacturer has not within the confines of his plant or elsewhere subjected the fabric to "reasonable and representative tests," which is all the guaranty asserts.

Such provisions of the bill are materially unlike those heretofore enacted in rather comparable situations, namely, the Wool Products Labeling Act of 1939 (15 U. S. C. A. 68), the Fur Products Labeling Act passed in 1951 (15 U. S. C. A. 69), and the Food, Drug, and Comestic Act of 1938 (20 U. S. C. A. 331 (h), 333 (c)).

Under these statutes, to obtain the immunity which the guaranty provisions afford throughout the channels of trade, the party who desires to exercise his optional right of using a guaranty is required to specifically warrant the product to be of a type which meets the requirements of the law. These laws also provide definite and specific authority for civil enforcement against a party who gives a false guaranty, leaving to the criminal provision the offense of willful falsification. Similarly adequate enforcement authority is lacking in H. R. 3851.

The guaranty provisions used in the Wolverton bill, H. R. 2768, and in the earlier Canfield bill, H. R. 389, follow in substance those found in the above-mentioned statutes. We believe them to be preferable and it is therefore suggested that the guaranty section in the Wolverton bill, H. R. 2768, or that appearing in H. R. 389 which is identical, be used with, however, omission after the word "establishes" of the inapplicable clause, "under the presently existing procedures for the establishment of commercial standards." As so recommended the section would then read:

GUARANTY

"SEC. 8. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, that said wearing apparel or fabric is not so highly flammable as to be dangerous when worn by individuals under the provisions of this act. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing

apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

"(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act."

Such suggested amendment also requires restoration of the designation "or 8 (b)" to section 7 immediately after the clause "Any person who willfully violates section 3".

Correspondingly, the designation "or 8 (b)" should be inserted in section 5 (b) in lieu of the clause "or from knowingly issuing a false guaranty under section 8".

In relation to the subject it should be noted that the issuance of a guaranty is not a requirement, but is an optional right accorded to the manufacturer or seller by which he may, if he so desires, confer immunity upon those who subsequently handle his product in the course of trade. It appears highly important, especially in view of the immunity conferred, that these provisions contain adequate safeguards against the possibilities of grave injuries resulting from articles of highly flammable goods sold to the public as made of so-called guaranteed fabrics.

COMMISSION'S SUPPORT OF LEGISLATION

The problem of dangerously flammable textiles reaching the market and being purchased by consumers who are innocent and unaware of their dangerous character has broken out in cycles and has led to a series of instances in which consumers have suffered severe burns and even death. The Commission, pursuant to its authority to act in prevention of unfair methods of competition and unfair or deceptive acts or practices in commerce under the Federal Trade Commission Act, has proceeded to the extent of its powers to protect the public in respect to such hazardous and dangerous merchandise. Numerous cases have been investigated and after hearings cease and desist orders were issued in due course against parties placing fabrics or garments in the channels of interstate commerce made in such way as to be highly flammable and dangerous.

The Commission does not have authority under present law to forestall the introduction of these products into the channels of trade, but can only proceed after the material has gotten into the market. Adequate protection of the public, as well as protection of business itself against the unscrupulous competition which the marketing of the highly dangerous merchandise may generate, requires legislation directed to the purpose expressed in H. R. 3851 of providing a means to forestall the introduction into commerce of the dangerous merchandise.

Once the merchandise leaves the factory it quickly becomes so scattered into various channels of trade that instances of burning of consumers are bound to occur because of the inability adequately to trace the articles, or have them removed from sale. This points up the importance of the prophylactic character of the bill.

We are of the opinion that passage of the legislation amended to cover the matters suggested above will go far toward providing necessary protection of the public, as well as protection of those merchants or dealers who in instances may innocently handle the goods in ignorance of the dangers they are thereby imposing upon their customers.

By direction of the Commission.

Sincerely yours,

JAMES M. MEAD, *Acting Chairman.*

N. B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on April 9, 1953, and on April 15, 1953, the Commission was advised that there would be no objection to the submission of the report to the committee.

EDWARD F. HOWREY, *Chairman.*

(NOTE.—An identical report was received from the Federal Trade Commission on H. R. 4159, a bill identical to H. R. 3851.)

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 1, 1953.

HON. CHARLES A. WOLVERTON,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. WOLVERTON: This is in response to your request of March 12, 1953, for a report on H. R. 3851, a bill to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

This Department has an interest in the proposed legislation as it relates to the utilization of fibers of agricultural origin in the manufacture of yarns and fabrics used in clothing and as it relates to the protection of the public from dangerously flammable materials.

This bill would impose various prohibitions upon the manufacture and distribution of articles of wearing apparel, and fabrics for use in wearing apparel, which are so highly flammable as to be dangerous when worn by individuals. The bill provides for the use of commercial standards promulgated by the Secretary of Commerce for determining high flammability under the act.

The development of an impartial standard of flammability requires measuring the speed of burning of fabrics and its correlation with associated human hazards involving careful scientific experimentation and application of the results. The National Bureau of Standards in the Department of Commerce has already given attention to procedures and standards for determining the rapid and intensive burning of wearing apparel and fabrics, and, we understand, is in position to make recommendations on the formulation of appropriate test methods, procedures, and standards for determining high flammability. Since such information is available, we suggest that the standard of flammability be defined in paragraph (a), section 4, and that paragraph (b) of this section be deleted.

This Department recommends that, with the changes specified above, this bill be given favorable consideration.

The Bureau of the Budget advises that from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

E. T. BENSON, *Secretary.*

(NOTE.—An identical report was received from the Department of Agriculture on H. R. 4159, a bill identical to H. R. 3851.)

The following letter was received from the Justice Department on the similar Senate bill, S. 715:

DEPARTMENT OF JUSTICE,
Washington, D. C., April 14, 1953.

HON. CHARLES W. TOREY,
*Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (S. 715) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

The bill would provide that the manufacture, sale, importation, or transportation in commerce of highly flammable wearing apparel or fabric shall be unlawful and an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act. The Secretary of Commerce would be directed to establish and promulgate test methods, procedures, and standards of flammability to be applicable under the bill. The Federal Trade Commission would be charged with the administration and enforcement of the provisions of the measure and also with respect to condemnation and injunction proceedings thereunder. The bill would protect any person who establishes a guaranty received in good faith from the person by whom an article is manufactured that said article is not so highly flammable as to be dangerous under the provisions of the measure. Violations of the bill would be deemed a misdemeanor punishable by a fine of not more than \$5,000 or imprisonment for not more than 1 year or both.

The Department of Justice is in full accord with the proposal to reduce the hazards of flammable material, especially wearing apparel. There are certain features of the bill here under consideration, however, which the Department deems objectionable.

It is suggested that the injunction and condemnation proceedings provided for under section 6 of the bill should be instituted and conducted by the Department of Justice rather than the Federal Trade Commission. Under other statutes of this type, such proceedings are instituted by the United States attorneys acting under authority of the Attorney General. To provide for the conduct of such proceedings elsewhere would mean a wasteful overlapping of functions at the expense of economy and efficiency.

It is also suggested that the word "willfully" should be deleted from section 7 which provides penalties for violations of the act. Legislation of this nature is designed to protect the unwary purchaser and the innocent consumer, and the violator of the act who is in a position to know the quality and characteristics of the product should be held liable regardless of intent. A similar burden is placed on those who come within the purview of the Federal Food, Drug, and Cosmetic Act, the Meat Inspection Act, and other regulatory statutes designed to protect the consumer. (See *United States v. Dotterweich* (320 U. S. 277).)

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.



H. R. 5069

[Report No. 400]

IN THE SENATE OF THE UNITED STATES

JUNE 4 (legislative day, MAY 28), 1953

Read twice and referred to the Committee on Interstate and Foreign Commerce

JUNE 11 (legislative day, JUNE 8), 1953

Reported by Mr. TOBEY, without amendment

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

SECTION 1. This Act may be cited as the “Flammable
Fabrics Act”.

6 DEFINITIONS

7 SEC. 2. As used in this Act—

8 (a) The term “person” means an individual, partner-
9 ship, corporation, association, or any other form of business
10 enterprise.

1 (b) The term “commerce” means commerce among the
2 several States or with foreign nations, or in any Territory of
3 the United States or in the District of Columbia, or between
4 any such Territory and another, or between any such Terri-
5 tory and any State or foreign nation, or between the District
6 of Columbia and any State or Territory or foreign nation.

7 (c) The term “Territory” includes the insular posses-
8 sions of the United States and also any Territory of the
9 United States.

10 (d) The term “article of wearing apparel” means any
11 costume or article of clothing worn or intended to be worn
12 by individuals except hats, gloves, and footwear: *Provided*,
13 *however*, That such hats do not constitute or form part
14 of a covering for the neck, face, or shoulders when worn
15 by individuals: *Provided further*, That such gloves are not
16 more than fourteen inches in length and are not affixed to or
17 do not form an integral part of another garment: *And pro-*
18 *vided further*, That such footwear does not consist of hosiery
19 in whole or in part and is not affixed to or does not form
20 an integral part of another garment.

21 (e) The term “fabric” means any material (other than
22 fiber, filament, or yarn) woven, knitted, felted, or other-
23 wise produced from or in combination with any natural
24 or synthetic fiber, film, or substitute therefor which is in-
25 tended or sold for use in wearing apparel except that in-

1 terlining fabrics when intended or sold for use in wear-
2 ing apparel shall not be subject to this Act.

3 (f) The term "interlining" means any fabric which is
4 intended for incorporation into an article of wearing apparel
5 as a layer between an outer shell and an inner lining.

6 (g) The term "Commission" means the Federal Trade
7 Commission.

8 (h) The term "Federal Trade Commission Act" means
9 the Act of Congress entitled "An Act to create a Federal
10 Trade Commission, to define its powers and duties, and
11 for other purposes", approved September 26, 1914, as
12 amended.

13 PROHIBITED TRANSACTIONS

14 SEC. 3. (a) The manufacture for sale, the sale,
15 or the offering for sale, in commerce, or the importa-
16 tion into the United States, or the introduction, deliv-
17 ery for introduction, transportation or causing to be
18 transported in commerce or for the purpose of sale or de-
19 livery after sale in commerce, of any article of wearing
20 apparel which under the provisions of section 4 of this Act
21 is so highly flammable as to be dangerous when worn by
22 individuals, shall be unlawful and shall be an unfair method
23 of competition and an unfair and deceptive act or practice
24 in commerce under the Federal Trade Commission Act.

25 (b) The sale or the offering for sale, in commerce, or the

1 importation into the United States, or the introduction, de-
2 livery for introduction, transportation or causing to be trans-
3 ported in commerce or for the purpose of sale or delivery
4 after sale in commerce, of any fabric which under the pro-
5 visions of section 4 of this Act is so highly flammable as to
6 be dangerous when worn by individuals, shall be unlawful
7 and shall be an unfair method of competition and an unfair
8 and deceptive act or practice in commerce under the Federal
9 Trade Commission Act.

10 (c) The manufacture for sale, the sale, or the offering
11 for sale, of any article of wearing apparel made of
12 fabric which under section 4 is so highly flammable
13 as to be dangerous when worn by individuals and which has
14 been shipped or received in commerce shall be unlawful
15 and shall be an unfair method of competition and an unfair
16 and deceptive act or practice in commerce under the Federal
17 Trade Commission Act.

18 STANDARD OF FLAMMABILITY

19 SEC. 4. (a) Any fabric or article of wearing apparel
20 shall be deemed so highly flammable within the meaning
21 of section 3 of this Act as to be dangerous when worn by
22 individuals if such fabric or any uncovered or exposed part
23 of such article of wearing apparel exhibits rapid and intense
24 burning when tested under the conditions and in the manner
25 prescribed in the Commercial Standard promulgated by the

1 Secretary of Commerce effective January 30, 1953, and
2 identified as "Flammability of Clothing Textiles, Commercial
3 Standard 191-53", or exhibits a rate of burning in excess of
4 that specified in paragraph 3.11 of the Commercial Standard
5 promulgated by the Secretary of Commerce effective May 22,
6 1953, and identified as "General Purpose Vinyl Plastic
7 Film, Commercial Standard 192-53". For the purposes of
8 this Act, such Commercial Standard 191-53 shall apply
9 with respect to the hats, gloves, and footwear covered by
10 section 2 (d) of this Act, notwithstanding any exception
11 contained in such Commercial Standard with respect to hats,
12 gloves, and footwear.

13 (b) If at any time the Secretary of Commerce finds that
14 the Commercial Standards referred to in subsection (a) of
15 this section are inadequate for the protection of the public
16 interest, he shall submit to the Congress a report setting forth
17 his findings together with such proposals for legislation as he
18 deems appropriate.

19 ADMINISTRATION AND ENFORCEMENT

20 SEC. 5. (a) Except as otherwise specifically provided
21 herein, sections 3, 5, 6, and 8 (b) of this Act shall be en-
22 forced by the Commission under rules, regulations and pro-
23 cedures provided for in the Federal Trade Commission Act.

24 (b) The Commission is authorized and directed to pre-
25 vent any person from violating the provisions of section 3

1 of this Act in the same manner, by the same means and with
2 the same jurisdiction, powers and duties as though all appli-
3 cable terms and provisions of the Federal Trade Commission
4 Act were incorporated into and made a part of this Act;
5 and any such person violating any provision of section 3 of
6 this Act shall be subject to the penalties and entitled to the
7 privileges and immunities provided in said Federal Trade
8 Commission Act as though the applicable terms and provi-
9 sions of the said Federal Trade Commission Act were incor-
10 porated into and made a part of this Act.

11 (c) The Commission is authorized and directed to pre-
12 scribe such rules and regulations as may be necessary and
13 proper for purposes of administration and enforcement of
14 this Act.

15 (d) The Commission is authorized to—

16 (1) cause inspections, analyses, tests, and exami-
17 nations to be made of any article of wearing apparel
18 or fabric which it has reason to believe falls within the
19 prohibitions of this Act; and

20 (2) cooperate on matters related to the purposes
21 of this Act with any department or agency of the Gov-
22 ernment; with any State, Territory, or possession or
23 with the District of Columbia; or with any department,
24 agency, or political subdivision thereof; or with any
25 person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of

1 this section shall conform as nearly as may be to proceedings
2 in rem in admiralty, except that on demand of either party
3 and in the discretion of the court, any issue of fact shall be
4 tried by jury. Whenever such proceedings involving identi-
5 cal articles of wearing apparel or fabrics are pending in two or
6 more jurisdictions, they may be consolidated for trial by order
7 of any such court upon application seasonably made by any
8 party in interest upon notice to all other parties in interest.
9 Any court granting an order of consolidation shall cause
10 prompt notification thereof to be given to other courts hav-
11 ing jurisdiction in the cases covered thereby and the clerks
12 of such other courts shall transmit all pertinent records and
13 papers to the court designated for the trial of such consoli-
14 dated proceedings.

15 (c) In any such action the court upon application
16 seasonably made before trial shall by order allow any party
17 in interest, his attorney or agent, to obtain a representative
18 sample of the article of wearing apparel or fabric seized.

19 (d) If such articles of wearing apparel or fabrics are
20 condemned by the court they shall be disposed of by destruc-
21 tion, by delivery to the owner or claimant thereof upon pay-
22 ment of court costs and fees and storage and other proper
23 expenses and upon execution of good and sufficient bond to
24 the effect that such articles of wearing apparel or fabrics will
25 not be disposed of for wearing apparel purposes until prop-

erly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show

1 that the fabric covered by the guaranty, or used in the wearing
2 apparel covered by the guaranty, is not, under the provisions
3 of section 4 of this Act, so highly flammable as to be danger-
4 ous when worn by individuals, and (2) has not, by further
5 processing, affected the flammability of the fabric or wearing
6 apparel covered by the guaranty which he received. Such
7 guaranty shall be either (1) a separate guaranty specifically
8 designating the wearing apparel or fabric guaranteed, in
9 which case it may be on the invoice or other paper relating
10 to such wearing apparel or fabric; or (2) a continuing
11 guaranty filed with the Commission applicable to any wear-
12 ing apparel or fabric handled by a guarantor, in such form
13 as the Commission by rules or regulations may prescribe.

14 (b) It shall be unlawful for any person to furnish, with
15 respect to any wearing apparel or fabric, a false guaranty
16 (except a person relying upon a guaranty to the same effect
17 received in good faith signed by and containing the name and
18 address of the person by whom the wearing apparel or fabric
19 guaranteed was manufactured or from whom it was received)
20 with reason to believe the wearing apparel or fabric falsely
21 guaranteed may be introduced, sold, or transported in com-
22 merce, and any person who violates the provisions of this
23 subsection is guilty of an unfair method of competition, and
24 an unfair or deceptive act or practice, in commerce within
25 the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the

1 ordinary course of its business; or (b) to any converter, proc-
2 essor, or finisher in performing a contract or commission serv-
3 ice for the account of a person subject to the provisions
4 of this Act: *Provided*, That said converter, processor, or
5 finisher does not cause any article of wearing apparel or
6 fabric to become subject to this Act contrary to the terms
7 of the contract or commission service; or (c) to any article
8 of wearing apparel or fabric shipped or delivered for ship-
9 ment into commerce for the purpose of finishing or proc-
10 essing to render such article or fabric not so highly flam-
11 mable, under the provisions of section 4 of this Act, as to be
12 dangerous when worn by individuals.

13 EFFECTIVE DATE

14 SEC. 12. This Act shall take effect one year after the
15 date of its passage.

16 AUTHORIZATION OF NECESSARY APPROPRIATIONS

17 SEC. 13. There is hereby authorized to be appropriated
18 such sums as may be necessary to carry out the provisions
19 of this Act.

Passed the House of Representatives June 3, 1953.

Attest:

LYLE O. SNADER,

Clerk.

83^d CONGRESS
1ST SESSION

H. R. 5069

[Report No. 400]

AN ACT

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

JUNE 4 (legislative day, MAY 28), 1953

Read twice and referred to the Committee on
Interstate and Foreign Commerce

JUNE 11 (legislative day, JUNE 8), 1953

Reported without amendment

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 19, 1953
For actions of June 18, 1953
83rd-1st, No. 111

CONTENTS

Adjournment.....17	Foreign aid.....2,7	Purchasing.....9
Appropriations.....1,8,33	Housing.....15	Research.....14
Contracts.....9	Immigration.....28	St. Lawrence waterway.....34
Credit union.....12	Interest rates.....15	Small business.....10
Dairy industry.....20	Lands, grazing.....18	Tariff.....27
Disaster relief.....29	research.....26	Taxation.....10
Economic controls.....4	Margarine.....6	T.V.A.....23
Electrification...13,22,23	Patents.....25	Trade, foreign.....31
Expenditures.....21	Personnel.....11	Transportation.....24,35
Fisheries.....30	Prices, farm.....19	Treaties.....16
Flammable fabrics.....5	support.....20	Veterans' benefits.....11
Flood control.....3,32	Property.....29	Wheat.....2

HIGHLIGHTS: Senate debated conference report on economic controls bill. Senate completed final congressional action on flammable fabrics bill. Senate committees reported mutual security and Interior appropriation bills. House passed 2nd independent offices appropriation bill. House debated mutual security bill.

HOUSE

1. APPROPRIATIONS. Passed, 394-2, with amendments H.R. 5690, the second independent offices appropriation bill for 1954 (pp. 7043-44).
2. FOREIGN AID. Concluded debate on H.R. 5710, the Mutual Security Agency authorization bill (pp. 7048-87). Rep. Chipenfield stated that reductions could be made in Point-4 by limiting its purpose to the sharing of technical skills (p. 7053).
Received an American Friends of the Middle East petition supporting the shipment of 2 million tons of wheat as a grant to Pakistan. (p. 7093).
3. FLOOD CONTROL. Received reports on the Fryingpan-Arkansas project, Colo. (Interior Department), (H. Doc. 187), and on the feasibility of providing flood control protection on the Arkansas River at Enid, Okla. (H. Doc. 185), and on the Lower Mississippi at New Madrid, Missouri (H. Doc. 183) (p. 7092).

SENATE

4. ECONOMIC CONTROLS. Began debate on the conference report on S. 1081, providing for temporary economic controls, and agreed to vote on this report Mon., June 22 (pp. 6993-7005, 7008-16).
5. FLAMMABLE FABRICS. Passed without amendment H.R. 5069, to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn (p. 6989). This bill will now be sent to the President.

6. MARGARINE. The Armed Services Committee reported without amendment S. 1806, to amend the Navy ration statute so as to authorize the serving of oleomargarine or margarine (S. Rept. 447) (p. 6974).
7. FOREIGN AID. The Armed Services Committee reported with amendments S. 2128, to continue the mutual security program for 1954 (S. Rept. 444) (p. 6974).
8. APPROPRIATIONS. The Appropriations Committee reported with amendments H.R. 4828 the Interior appropriation bill for 1954 (S. Rept. 445) (p. 6974).
9. PURCHASING. The Judiciary Committee reported with amendments S. 848, to prescribe policy and procedure in connection with construction contracts made by executive agencies (S. Rept. 448) (p. 6974).
10. SMALL BUSINESS; TAXATION. The Select Committee on Small Business submitted a report, "Tax Problems of Small Business" (S. Rept. 442) (pp. 6974-5).
11. PERSONNEL. Passed as reported S. 1684, to facilitate civil-service appointment of certain veterans (pp. 6990-1). This bill preserves and restores the eligibility for probational appointment of those who were on a civil-service register and eligible for probational appointment, and who lost opportunity for such appointment because of their service in the Armed Forces after June 30, 1950. It also provides that upon probational appointment, the veteran's rate of compensation, seniority rights, grade and time-in-grade, and within-grade step increases shall be based and determined as if he were appointed the date the lower ranking eligible was probationally appointed. It directs the CSC to place these veterans on an appropriate register with the same priority that is extended to World War II veterans. The veteran must have been discharged "under honorable conditions," be qualified for the duties of the position, and make application therefor within 90 days after his separation.

The Banking and Currency Committee reported with amendments S. 1458, to continue employee war-risk hazard and detention benefits until July 1, 1954 (p. 6974). The bill was then considered and passed over on Sen. Thye's objection (pp. 6991-92).
12. CREDIT UNION. Passed as reported S. 1665, to amend the Federal Credit Union Act (relating to payment of dividends to members) (p. 6985).
13. ELECTRIFICATION. Passed without amendment S. 2097, to increase the amount authorized to be appropriated for the construction of the Klutna hydroelectric project, Alaska, from 20,365,400 to 33 million (pp. 6981-2).

Sen. Kefauver opposed the proposed execution of a contract between the Bonneville Power Admin. and private utility companies in the Northwest whereby power from the BPA would be distributed through nine companies, and inserted a statement opposing this contract from purchasers claiming 99% of all power purchases in this region (pp. 7033-9).
14. RESEARCH. Passed as reported S. 977, to amend the National Science Foundation Act to provide an "open-end" authorization (p. 6987).
15. HOUSING. Agreed to the committee amendments to S. 1993, to amend the National Housing Act and the Servicemen's Readjustment Act of 1944 with respect to maximum interest rates, and then passed over the bill (pp. 6982-83).
16. TREATIES. Agreed to a committee amendment in the nature of a substitute and then passed over S. J. Res. 1, proposing a constitutional amendment to limit the

The ACTING PRESIDENT pro tempore. The clerk will state the remaining committee amendments.

The CHIEF CLERK. On page 2, line 10, after the word "until", to strike out "completion; and" and insert "completion"; and after line 10, to strike out:

"(3) shall be added to the 7-year period after discharge or release from active service in determining the expiration of the period of eligibility for education or training of such eligible veteran under section 213."

So as to make the bill read:

Be it enacted, etc., That section 212 of the Veterans' Readjustment Assistance Act of 1952 (66 Stat. 664, 38 U. S. C. 917) is amended by adding at the end thereof a new subsection as follows:

"(d) In the case of an eligible veteran who, after his discharge or release from active service, is engaged in performing full-time services as a missionary (either within or outside the United States) by a religious denomination or interdenominational mission organization having a bona fide organization in the United States, any period, not exceeding a total of 36 months, during which such eligible veteran is so engaged—

"(1) shall be added to the periods prescribed by subsection (a) within which such eligible veteran must initiate a program of education or training;

"(2) shall be disregarded in applying the provisions of subsection (b) which require an eligible veteran to pursue his program of education or training continuously until completion."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PROHIBITION OF INTRODUCTION OR MOVEMENT IN INTERSTATE COMMERCE OF HIGHLY FLAMMABLE WEARING APPAREL AND FABRICS

The bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes, was announced as next in order.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. MAGNUSON. Mr. President, reserving the right to object—and I shall not object—I believe the bill should be clarified in a certain respect.

Section 11 of the bill excludes from the provisions of the act any common carrier, contract carrier, or freight forwarder receiving the prohibited articles in the ordinary course of business.

As section 11 is worded, it might be construed to distinguish freight forwarders from other common carriers. I am sure that no such construction is intended. Three years ago a question arose as to the status of freight forwarders, and the Congress enacted Public Law 881 of the 81st Congress to clarify that status and make clear that freight forwarders are common carriers.

I would not want to have the wording of this bill cause any further confusion as to the common-carrier status of freight forwarders.

It is my understanding that the term "freight forwarder" was spelled out in the bill for the reason that there are certain activities, described as freight forwarding, engaged in, particularly at ports and in overseas shipping, which are not subject to regulation under the Interstate Commerce Act and which might not be embraced within the term "common carrier." To make certain that all such activities would be excluded from the act, the term "freight forwarder" was used, in addition to the term "common carrier."

I make this statement because I want it to be clear on the record that the use of the term "freight forwarder" in the bill is not intended to change or in any way affect the common-carrier status of freight forwarders, which was determined in the 81st Congress.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill (H. R. 5069) to prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT TO THE CONSTITUTION RELATING TO THE MAKING OF TREATIES AND EXECUTIVE AGREEMENTS—JOINT RESOLUTION PASSED OVER

The joint resolution (S. J. Res. 1) proposing an amendment to the Constitution of the United States relative to the making of treaties and executive agreements was announced as next in order.

Mr. SMATHERS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Griswold	McCarran
Anderson	Hayden	McCarthy
Barrett	Hendrickson	McClellan
Bennett	Hennings	Millikin
Bush	Hickenlooper	Monroney
Butler, Md.	Hill	Morse
Byrd	Hoey	Mundt
Capehart	Holland	Neely
Carlson	Humphrey	Payne
Case	Hunt	Potter
Chavez	Jackson	Purtell
Clements	Jenner	Robertson
Cooper	Johnson, Colo.	Saltonstall
Cordon	Johnson, Tex.	Schoeppel
Daniel	Johnston, S. C.	Smathers
Dirksen	Kefauver	Smith, Maine
Douglas	Kennedy	Smith, N. J.
Duff	Kerr	Sparkman
Dworshak	Kilgore	Stennis
Eastland	Knowland	Symington
Ellender	Langer	Taft
Ferguson	Lehman	Thye
Flanders	Long	Watkins
Frear	Magnuson	Welker
George	Malone	Williams
Gillette	Mansfield	Young
Goldwater	Martin	
Green	Maybank	

The PRESIDING OFFICER (Mr. BENNETT in the chair). A quorum is present.

Is there objection to the present consideration of Senate Joint Resolution 1, Calendar No. 408, proposing an amend-

ment to the Constitution of the United States relative to the making of treaties and executive agreements?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on the Judiciary with an amendment on page 2, after line 5, to strike out:

SECTION 1. A provision of a treaty which denies or abridges any right enumerated in this Constitution shall not be of any force or effect.

SEC. 2. No treaty shall authorize or permit any foreign power or any international organization to supervise, control, or adjudicate rights of citizens of the United States within the United States enumerated in this Constitution or any other matter essentially within the domestic jurisdiction of the United States.

SEC. 3. A treaty shall become effective as internal law in the United States only through the enactment of appropriate legislation by the Congress.

SEC. 4. All executive or other agreements between the President and any international organization, foreign power, or official thereof shall be made only in the manner and to the extent to be prescribed by law. Such agreements shall be subject to the limitations imposed on treaties, or the making of treaties, by this article.

SEC. 5. The Congress shall have power to enforce this article by appropriate legislation.

SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission.

And insert:

"SECTION 1. A provision of a treaty which conflicts with this Constitution shall not be of any force or effect.

"SEC. 2. A treaty shall become effective as internal law in the United States only through legislation which would be valid in the absence of treaty.

"SEC. 3. Congress shall have power to regulate all executive and other agreements with any foreign power or international organization. All such agreements shall be subject to the limitations imposed on treaties by this article.

"SEC. 4. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission."

So as to make the joint resolution read:

Resolved, etc., That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. A provision of a treaty which conflicts with this Constitution shall not be of any force or effect.

"SEC. 2. A treaty shall become effective as internal law in the United States only through legislation which would be valid in the absence of treaty.

"SEC. 3. Congress shall have power to regulate all executive and other agreements with any foreign power or international organization. All such agreements shall be sub-

ject to the limitations imposed on treaties by this article.

"Sec. 4. The Congress shall have power to enforce this article by appropriate legislation.

"Sec. 5. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within 7 years from the date of its submission."

Mr. LANGER. Mr. President, in connection with the joint resolution, I may say that the committee was divided, by a close vote. I believe the joint resolution is of such importance that it should not be disposed of during the call of the calendar, but I hope it will be taken up some time next week.

Mr. BUTLER of Maryland. Mr. President, the Senator from North Dakota does not object to the committee amendment, does he?

Mr. LANGER. Oh, no.

Mr. BUTLER of Maryland. Then, Mr. President, the question now is on agreeing to the committee amendment, is it not?

The PRESIDING OFFICER. Yes; the question is on agreeing to the committee amendment. (Putting the question.)

The amendment was agreed to.

The PRESIDING OFFICER. If there is no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

Mr. LANGER. Mr. President, there is a divided report on the part of the committee, and the joint resolution is of such great importance that in my opinion it should not be passed during the call of the consent calendar.

I respectfully ask that the joint resolution be passed over, but be set for consideration in the early part of next week.

Mr. HENDRICKSON. I suggest that the Senator from North Dakota take up this matter with the distinguished acting majority leader.

Mr. LANGER. Very well. The joint resolution should be considered very soon.

Mr. McCARRAN. Mr. President, in respect to Senate Joint Resolution No. 1, Calendar No. 408, let me say that I had the honor of joining with other Members of this body in introduction of Senate Joint Resolution 1, which would put an end to legislation and constitutional amendment by treaty or by executive agreement. I had the honor of joining with other members of the Committee on the Judiciary in reporting the joint resolution favorably to the Senate. This joint resolution should be approved by the Senate, and I am confident it will be approved by the Senate.

I wish to inquire now of the acting majority leader whether he has information as to the plans of the majority leadership in regard to permitting the joint resolution to come before the Senate for debate and vote at an early date.

Mr. HENDRICKSON. Mr. President, the distinguished acting majority leader, the senior Senator from California [Mr. KNOWLAND], is on the floor. I think it would be better to have him respond to the inquiry of the Senator from Nevada.

Mr. McCARRAN. Mr. President, I should like very much to have the Senator from California respond.

Mr. KNOWLAND. I did not understand the Senator's question.

Mr. McCARRAN. At what time in the near future can consideration by the Senate be given to Senate Joint Resolution 1, the so-called Bricker resolution?

Mr. KNOWLAND. I would say to the distinguished Senator from Nevada that I have been in touch with the Senator from Ohio [Mr. TAFT]. As the Senator from Nevada knows, the report on the resolution has but recently been made available to the Senate, and I have invited the Senator from Ohio to appear before the policy committee at its next meeting, on Tuesday, at which time the matter relative to scheduling the resolution for consideration will be discussed by the policy committee.

Mr. McCARRAN. Mr. President, addressing myself to the Senator from California, the acting majority leader, I express the hope that the joint resolution may be considered at an early date. It is one which has had the attention of the entire country, and the entire country is behind it. It should be passed during the present session of the Congress.

The PRESIDING OFFICER. The joint resolution will go over.

AMENDMENT TO THE CONSTITUTION RELATING TO THE MAKING OF TREATIES AND EXECUTIVE AGREEMENTS—MOTION TO RECONSIDER

Mr. KNOWLAND subsequently said: Mr. President, I wish to enter a motion to reconsider the vote by which the Senate, in its consideration of Senate Joint Resolution 1, on the calendar call today, agreed to certain amendments. Under the rules of the Senate, as I understand the parliamentary situation, the Senate, having adopted the committee amendments today during the call of the calendar, would be foreclosed from making further amendments to any of the sections that were amended and agreed to today. I was one of the 55 or 60 sponsors of the joint resolution proposing the constitutional amendment, and I do not believe it is good legislative procedure to foreclose the Senate from further consideration of any other amendments which, in its judgment, it might desire to consider.

The PRESIDING OFFICER. The motion will be entered.

CIVIL-SERVICE APPOINTMENT OF PERSONS IN THE ARMED FORCES AFTER JUNE 30, 1950

The Senate proceeded to consider the bill (S. 1684) to facilitate civil-service appointment of persons who lost opportunity therefore because of service in the Armed Forces after June 30, 1950, and to provide certain benefits upon appointment which had been reported from the Committee on Post Office and Civil Service with amendments, on page 1, line 7, after the word "Act" to insert "as amended"; on page 2, line 4, after the

word "received" to strike out "an" and insert "a probational"; in line 6, after the word "for" to insert "probational"; in line 19, after the word "person" to insert "as a result of such restored eligibility"; on page 3, line 4, after the word "was" to insert "probationally"; in line 11, after the word "separated" to insert "or relieved from active duty"; in line 19, after the word "separation" to insert "or relief from active duty"; in line 20, after the word "Forces", to strike out "or"; in line 21, after the word "continuing" to insert "for a period of not more than one year"; in line 22, after the word "separation" to insert "or relief from active duty"; in line 23, after the word "Forces", to insert "or (C) the date of enactment of this act, whichever is later"; after line 24, to strike out:

(b) This act shall not apply to any periods of service (including reenlistments) in the Armed Forces which commence or are voluntarily continued after the expiration of the authority to induct persons into the Armed Forces under the Universal Military Training and Service Act.

And insert:

(b) No person shall be entitled to the benefits of this act who—

(1) voluntarily continues service (including reenlistments) in other than a reserve component of the Armed Forces and who serves more than 4 years (plus any additional service imposed pursuant to law) or

(2) serves more than 4 years after the date of entering upon active duty, or serves beyond the date upon which he is able to obtain orders relieving him from active duty following 4 years of service, in the Armed Forces (other than for the purpose of determining his physical fitness) whether or not voluntarily, in response to an order or call to active duty.

And on page 4, line 21, after the word "his" to insert "probational", so as to make the bill read:

Be it enacted, etc., That (a) any person (1) who serves in the Armed Forces of the United States at any time after June 30, 1950, and prior to the expiration of the authority to induct persons into the Armed Forces under the Universal Military Training and Service Act, as amended, (2) whose name appears on any civil-service register after June 30, 1950, with respect to a position in the Government of the United States or in the municipal government of the District of Columbia, and (3) during whose service in the Armed Forces subsequent to June 30, 1950, another eligible standing lower on such list of eligibles received a probational appointment therefrom, shall be entitled to be placed on the original or appropriate successor register for certification for probational appointment.

(b) The Civil Service Commission is authorized and directed to place such persons on such original registers or appropriate successor registers with the same priority accorded persons entitled to the benefits of the act entitled "An act to provide benefits for certain employees of the United States who are veterans of World War II and lost opportunity for civil-service appointments by reason of their service in the Armed Forces of the United States," approved July 31, 1946 (Public Law 577, 79th Cong.), as amended.

(c) Upon the probational appointment of any such person as a result of such restored eligibility, he shall, for the purpose of determining (1) his rate of basic compensation, (2) his seniority rights, (3) in the case of a position in the postal field service, his grade and time-in-grade, and (4) in the case of a position to which the Classification Act of

Public Law 88 - 83d Congress

Chapter 164 - 1st Session

H. R. 5069

AN ACT

All 67 Stat. 111.

To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Flammable Fabrics Act". Flammable Fabrics Act.

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: *Provided, however,* That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further,* That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further,* That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

38 Stat. 717.
15 USC 58.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be

15 USC 58.

an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53", or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53". For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

15 USC 58.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond. 15 USC 58.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court; any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing

apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: *Provided*, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

15 USC 58.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: *Provided*, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved June 30, 1953.

THE
LIBRARY
OF THE
MUSEUM OF
COMPARATIVE ZOOLOGY
AT HARVARD UNIVERSITY
CAMBRIDGE, MASS.

3540 E

U.S.D.A.
SEA/TIS
LAW LIBRARY
ROOM 1406 SOUTH
WASHINGTON D.C. 20250

